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Sudan and South Sudan: Current Issues for Congress and U.S. Policy

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Summary

Congress has played an active role in U.S. policy toward Sudan for more than three decades. Efforts to support an end to the country's myriad conflicts and human rights abuses have dominated the agenda, as have counterterrorism concerns. When unified (1956-2011), Sudan was Africa's largest nation, bordering nine countries and stretching from the northern borders of Kenya and Uganda to the southern borders of Egypt and Libya. Strategically located along the Nile River and the Red Sea, Sudan was historically described as a crossroads between the Arab world and Africa. Domestic and international efforts to unite its ethnically, racially, religiously, and culturally diverse population under a common national identity fell short, however. In 2011, after decades of civil war and a 6.5 year transitional period, Sudan split in two. Mistrust between the two Sudans—Sudan and South Sudan—lingers, and unresolved disputes and related security issues still threaten to pull the two countries back to war.

The north-south split did not resolve other simmering conflicts, notably in Darfur, Blue Nile, and Southern Kordofan. Roughly 2.5 million people remain displaced as a result of these conflicts. Like the broader sub-region, the Sudans are susceptible to drought and food insecurity, despite significant agricultural potential in some areas. Civilians in the conflict zones are particularly vulnerable. Instability and Sudanese government restrictions have limited relief agencies' access to conflict-affected populations. Humanitarian conditions in Southern Kordofan and Blue Nile have been at crisis levels for months, but an estimated half a million people remain largely beyond the reach of aid groups. Logistical challenges constrain the delivery of relief for those who have fled, primarily to remote refugee camps across the border in South Sudan. The harassment of aid workers is a problem in both Sudans, further hindering aid responses.

The peaceful separation of Sudan and South Sudan was seen by some players as an opportunity to repair relations between Sudan's Islamist government and the United States. Those ties have long been strained over Khartoum's human rights violations and history of support for international terrorist groups. Among the arguments in favor of normalizing relations with Sudan has been the notion that the United States has few additional unilateral "sticks" to apply against Khartoum, given robust sanctions already in place. Applying certain "carrots," such as easing sanctions, might encourage further political reforms, proponents say. The Obama Administration sought to improve the relationship with Khartoum in 2011, given South Sudan's successful referendum and separation from Sudan, and Sudan's cooperation on counterterrorism. The U.S. effort has been impeded by ongoing reports of abuses, including allegations that Khartoum continues to commit war crimes against civilians. Some observers argue that improving the relationship would reward bad behavior. Relations are also complicated by the fact that several government officials, notably President Omar al Bashir, have been accused of war crimes, crimes against humanity, and genocide at the International Criminal Court in relation to the Darfur conflict.

U.S. relations with South Sudan, which are rooted in years of American activism and disaster relief to the south during the civil war, remain close, though there have been signs of strain in 2012. The United States is the country's largest bilateral donor, but the Administration has expressed concern over certain actions taken by leaders in Juba that have, in its view, further aggravated the relationship between the Sudans and the economic situation in both countries.

This report examines the shared interests and outstanding disputes between the Sudans after separation, and gives an overview of political, economic, and humanitarian conditions in the two countries, with a focus on possible implications for U.S. policy and congressional engagement.

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Overview

The United States Congress has a long history of engagement on U.S. policy toward Sudan—since the end of apartheid in South Africa, there is no country (now countries) in Africa on which Congress has focused greater attention. This sustained, bipartisan focus has been driven in part by diverse advocacy groups and public awareness campaigns on issues in Sudan ranging from famine to modern-day slavery, religious persecution, genocide, and other violations of human rights and humanitarian law. Terrorism concerns have overlapped with these policy debates.

Peace and stability within and between Sudan and South Sudan remain among the highest U.S. foreign policy priorities in Africa, yet these goals remain elusive, even after several years of seemingly positive momentum and multiple peace accords.[1] In 2005, Sudan's Islamist government in Khartoum and the southern insurgency known as the Sudan People's Liberation Movement/Army (SPLM/A) signed a peace agreement to end Africa's longest running civil war.[2] That deal paved the way for a southern referendum on self-determination, after which South Sudan, led by the SPLM in Juba, seceded in July 2011. Violence and insecurity continue to plague the two countries, however, as evidenced by the presence of roughly one-third of the U.N. peacekeepers deployed worldwide, who are stationed in the two Sudans as part of three different operations.[3] In both countries, overlapping conflicts between security forces and armed groups, among ethnic groups, and between nomadic and farming communities have caused extensive displacement and human suffering. International actors continue to press the Sudans to resolve their outstanding disputes so post-war recovery and reconciliation can proceed.

The 2005 peace agreement did not resolve several significant issues between the governments in Khartoum and Juba. They have continued deliberations on once-shared resources, such as oil; disputed areas along their shared 1,200 mile border; and other related security issues. Progress in the talks has been halting since separation, with a partial agreement on security and economic cooperation reached on September 27, 2012 (see **Appendix A**). The parties have agreed to a demilitarized border zone and a joint border verification and monitoring mission designed to defuse tensions along the border. The two countries' security forces remained heavily deployed along or beyond their respective sides of their shared border after separation and have clashed on several occasions. The implementation of agreements previously reached by the parties has not kept pace with international expectations, leading to some skepticism about this latest accord. The September agreement failed to resolve the status of several contested border areas, including the disputed Abyei region. The deployment of peacekeepers to Abyei in mid-2011 defused a violent stand-off between Sudanese and South Sudanese forces, but the majority of Abyei's residents remain displaced, and a political resolution remains outstanding.

[1] In this report, the terms "South Sudan" and "the south" refer to what now constitutes the new Republic of South Sudan, while "Sudan," "Sudanese," and "the north" refer to the present-day Republic of Sudan, unless otherwise indicated in discussions of "unified" Sudan, prior to separation. "Khartoum" and "Juba," the two countries' respective capitals, are also used to refer to their governments.

[2] The acronyms SPLM and SPLA refer to the political and armed wings of the former southern insurgency, respectively. The SPLM is now South Sudan's ruling party, and the SPLA now composes the country's armed forces.

[3] The three operations are the U.N. Mission in the Republic of South Sudan (UNMISS), the U.N. Interim Security Force for Abyei (UNISFA), and the African Union-U.N. Hybrid Operation in Darfur (UNAMID). See **Appendix D**.

Figure 1. Map of Sudan and South Sudan

	Sudan	South Sudan
Capital	Khartoum	Juba
Comparative area	less than 1/5 the size of the U.S.	slightly smaller than Texas
Population	26 million	10.6 million
Official languages	Arabic and English	Arabic and English
Religions	Sunni Muslim, small Christian minority	animist, Christian
Infant mortality rate	55.63 deaths/1,000 live births	71.83 deaths/1,000 live births
Literacy	Total population: 61% male: 72%, female 50.5%	Total population: 27% male: 40%, female 16%
HIV adult prevalence rate	1.1%	3.1%
Head of State	President Omar al Bashir (ba-SHEER) *(won 68.2% of vote in April 2010 elections)*	President Salva Kiir (KEER) Mayardit *(won 93% of vote in April 2010 elections)*
Ruling Party	The National Congress Party (NCP)	The Sudan People's Liberation Movement (SPLM)

Map created by CRS using ESRI basemaps. The borders indicated do not imply official endorsement or acceptance by CRS or the U.S. government.

National flags and country information from CIA World Factbook 2012 and State Department Background Notes. Infant mortality, literacy, and HIV prevalence data for Sudan includes South Sudan. Statistics are from 2011 and draw from the 2008 census.

Conflict has escalated in the past year in the Sudanese border states of Southern Kordofan and Blue Nile, between Sudan's military and the SPLM-North, insurgents once formally aligned with South Sudan's ruling party. Fighting in these states is driven by local grievances against Khartoum and has severely affected more than half a million people. Access by relief agencies is

extremely limited. Another 205,000 have fled as refugees to South Sudan and Ethiopia.[4] U.N. and independent human rights investigations suggest that the Sudanese military may be responsible for war crimes in the two states. These conflicts and the ongoing hostilities in Sudan's western Darfur region complicate U.S. relations with both countries and have led the Obama Administration to defer efforts to begin normalizing relations with Sudan.

Critics of current mediation efforts suggest that a piecemeal approach to Sudan's overlapping conflicts has led to a focus on resolving one conflict at the expense of another, thus prolonging the violence. Some in Congress and the Administration have called for a comprehensive agreement that promotes democratic reform and "lasting peace throughout all of Sudan."[5] Khartoum has long resisted efforts to combine discussions with various opponents to the regime, preferring to negotiate separately with the SPLM, the Darfur groups, and others. This approach has yielded some positive outcomes, but it has also resulted in partially implemented agreements that do not fully address regional grievances or resolve disputes that are fundamentally national issues. In Darfur, a 2011 peace agreement supported by the international community has failed to incorporate the region's largest armed groups. Deteriorating security conditions in Darfur have prompted the State Department to question Sudan's commitment to implement the agreement.[6] Independent observers suggest that the conflict "is far from approaching a sustainable resolution," despite a relative reduction in violence from the height of the crisis.[7] U.S. Special Envoy for Sudan and South Sudan Princeton Lyman outlined his view of the challenge in August 2012:

> Sudan cannot deal with the ongoing troubles in Darfur, Southern Kordofan, Blue Nile, the east, and elsewhere in the country with a system that does not meet the demands for greater political space, for greater sharing of wealth and opportunity and for greater democracy. Trying to suppress those demands militarily has led to continued conflicts. And the conflicts have in turn led to new accusations of human rights violations. This is a vicious circle that keeps Sudan from a new dawn.[8]

Groups opposed to the ruling party in Khartoum have yet to unite behind a clearly articulated common vision for the country's future. The major armed groups have, however, pledged cooperation toward their near-term goal of regime change in Khartoum.

The Sudans appeared to engage in what some termed an economic "war of attrition" with each other for much of 2012, creating mounting hardship and domestic pressure on both sides. South Sudan halted oil production in January 2012 because of unresolved disputes with Sudan over export arrangements and revenues from once-shared reserves, leaving both countries facing massive budget shortfalls and inflation. The two sides reached a preliminary agreement in August 2012 on financial arrangements, including southern oil exports; the September deal may allow production and exports to resume by mid-2013.

Given their revenue losses, both governments have pursued austerity budgets in 2012 and prioritized security spending, leaving little for social services or development. As **Appendix B** indicates, population displacement and food insecurity are significant problems in both countries.

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[4] Office for the Coordination of Humanitarian Affairs, *Sudan Humanitarian Update: 2nd Quarter 2012*, July 16, 2012.

[5] The Sudan Peace, Security, and Accountability Act of 2012, H.R. 4169, as introduced.

[6] State Department, "Deteriorating Security Situation in Darfur, Sudan," Press Statement, October 4, 2012.

[7] Claudio Gramizzi and Jerôme Tubiana, *Forgotten Darfur: Old Tactics and New Players*, Small Arms Survey Human Security Baseline Assessment (HSBA) Working Paper 28, July 2012.

[8] U.S. Special Envoy Princeton Lyman, "U.S.-Sudan Relations," Address at the Atlantic Council, August 1, 2012.

Both governments have looked to donors and lenders to make up the near-term fiscal gap created by lost oil revenue, thus pushing the United States and others to make difficult decisions regarding fundamental strategic interests in the region and the relative priority of their objectives.

Congressional Engagement on U.S. Policy Toward the Sudans

Congressional action has often influenced U.S. policy toward Sudan. U.S. relations with Sudan have long been turbulent, with the two countries routinely taking opposing positions on Middle East and Africa issues. U.S. foreign aid to Sudan had risen substantially starting in the late 1970s when Sudan was seen as a Cold War ally, but in the wake of the 1989 coup that brought Omar al Bashir and the National Islamic Front (NIF) to power, diplomatic relations were downgraded and aid was cut off. The Clinton Administration designated Sudan as a state sponsor of terrorism in 1993. By 1999, some Members of Congress who were sympathetic to the cause of Sudan's southern insurgents initiated efforts to tighten sanctions. At the same time they pushed to authorize not only food aid but development assistance, including programs to build local administrative capacity, for areas outside of Khartoum's control—namely areas held by the SPLM.[9] In 2002, Congress also appropriated non-lethal assistance for the National Democratic Alliance, a coalition of armed and unarmed opposition forces (including the SPLM), to "strengthen its ability to protect civilians from attacks."[10] At the same time, Congress expressed support for Bush Administration efforts to seek a negotiated settlement to Sudan's civil war.

Several years later, conflict and human rights abuses in the diverse and historically volatile Darfur region captured international attention and galvanized a campaign that led Congress and President George W. Bush to accuse Khartoum of genocide and further tighten sanctions.[11] Congress added Darfur to the areas outside government control eligible to receive U.S. foreign aid and required the President to develop a contingency plan for delivering relief aid to any areas where the government denied access.[12] In 2006, after the north-south war had ended, Congress introduced additional economic and diplomatic sanctions on Khartoum to press for a resolution of the Darfur conflict. It also authorized assistance to implement the north-south agreement, including military aid to support the SPLA's transformation from a guerilla movement into a professional army.[13] Congress later supported the efforts of U.S. state and local governments to divest any assets in companies that conduct certain business operations in Sudan, and required U.S. government contracts to meet similar standards.[14] Today, Members continue to explore various policy tools to press the Sudanese government to end abuses and to facilitate a peaceful future for both Sudans.

Throughout this period of strained relations, the United States has remained the largest bilateral donor of humanitarian assistance to the people of both Sudan and South Sudan. The United States

[9] The House and Senate separately passed several versions of the Sudan Peace Act (in 1999, 2000, and 2001) before it became law in October 2002 as P.L. 107-245. It authorized $100 million annually "to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture."

[10] The Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2002, P.L. 107-115. H.Rept. 107-142, stated that the Bush Administration "can and should do more to support the democratic opposition in Sudan."

[11] The 108th Congress declared the Sudanese government's actions in Darfur to constitute genocide in the House with passage of H.Con.Res. 467 (422-0) and in the Senate with the adoption of S.Con.Res. 133, (by Unanimous Consent).

[12] The Comprehensive Peace in Sudan Act of 2004, P.L. 108-497.

[13] The Darfur Peace and Accountability Act of 2006, P.L. 109-344.

[14] The Sudan Accountability and Divestment Act of 2007, P.L. 110-174.

also contributes the largest share of funding for the three U.N. peacekeeping operations. Statutory restrictions limit U.S. development assistance to Sudan to humanitarian, health, demining, and democracy aid. By contrast, South Sudan ranks among the largest U.S. aid recipients in sub-Saharan Africa. The United States has invested substantially in efforts to make the world's newest country viable, given its massive humanitarian and development needs. In total, U.S. spending on both Sudans has approached $2 billion annually in recent years—most of it for humanitarian aid and international peacekeeping operations. As fiscal constraints and competing domestic priorities present Congress and the Administration with complex budget decisions, the levels and types foreign aid to both Sudans may attract increasing attention and debate.

Background

For more than fifty years, north and south Sudan were unified as a country, but divided internally. Together they constituted the largest country in Africa, with territory roughly equal in size to the United States east of the Mississippi River. Their separation in 2011 followed decades of civil war described broadly as a conflict between the "Arab" Muslim north and "African" Christian and animist south.[15] Ongoing conflict and unrest within and between the now-separate countries is indicative of the complex political and cultural divisions that have plagued Sudan for decades.

After Sudan gained independence from Anglo-Egyptian rule in 1956, successive governments in Khartoum perpetuated development disparities between the north and south that were, in part, a legacy of colonial administration. Northern-led regimes espousing Islamist ideals have dominated much of Sudan's modern political history, often pressing policies aimed at forcing distant provinces to conform to the center—Khartoum—rather than working to accommodate the local customs and institutions of the country's diverse population. Instead of forging a common Sudanese identity, these policies exacerbated Sudan's racial, cultural, and religious differences. Government attempts to Arabize and Islamize the countryside (the so-called "periphery") met with resistance, not only from southerners, but from various ethnic and regional groups that felt marginalized by central authorities.[16] Dissatisfaction in the south sparked two related insurgencies against Khartoum (1955-1972 and 1983-2005). Groups in other regions rose up periodically against the government, citing local grievances, and some ultimately joined the southern rebels.

Revenues from Sudan's oil reserves, which were discovered in 1978 and are largely concentrated in the south, primarily benefitted the north, in particular state elites in Khartoum. Oil money also financed the government's countering of domestic insurgencies with force—first in the south, and then also in the west and east. Sudan's counter-insurgency campaigns did not discriminate

[15] Sudan, when unified, was composed of more than 400 ethnic groups. Arab identity in the country has cultural, racial, linguistic, and religious connotations that have been manipulated by northern political elites. Many northern groups identify themselves as "Arab" based on lineage they trace back to traders from the Arabian Peninsula who settled and integrated with the indigenous population centuries ago. Since independence, Sudanese politics have been dominated by members of the Arabized "Riverine tribes" that live along the Nile north of Khartoum. The CIA *World Factbook* states that "Arabs" comprise 70% of the population in post-separation Sudan—the Riverine Arabs are a small minority among this broader grouping of Arab Sudanese. While all Sudanese are, in fact, African, the term "African" is often applied to non-Arab ethnic groups, many of which have darker complexions, to differentiate them from Arab groups.

[16] Official post-independence efforts to "Arabize" Sudan began with Gen. Ibrahim Abboud (president from 1958 to 1964), who declared Arabic the official language for administration and education and expelled Christian missionaries. See Francis M. Deng, *War of Visions: Conflict of Identities in the Sudan* (Washington, DC: The Brookings Institution, 1995), and Robert O. Collins, *A History of Modern Sudan* (Cambridge, UK: Cambridge University Press, 2008).

between fighters and civilians, and the government repeatedly questioned the neutrality of international aid agencies and restricted their access to affected populations. The rebel groups persisted, and among them the SPLA was the most successful in gaining ground against the more heavily armed Sudanese military. The SPLA faced internal divisions in the 1990s, largely along ethnic lines, that Khartoum fueled these splits by financing and arming from breakaway factions. Along the north-south border, Khartoum also used its oil revenues to finance local Arab militias, collectively referred to as the Popular Defense Forces (PDF), as a front line against the south.[17]

Civil war took the heaviest toll on the south—more than two million deaths; massive, long-term displacement; and decades of suspended development—but it also came at a significant cost to Khartoum. By 2002, as the government and the SPLM prepared to sign the first in a series of accords that would end the war three years later, another armed uprising was brewing, in Darfur. In response, as it had done with the PDF, Khartoum trained and armed local Arab militia, often referred to as the *Janjaweed*, to join with the military to conduct what then-Secretary of State Colin Powell termed in 2004 a "scorched earth policy toward the rebels and the African civilian population." Secretary Powell and President Bush declared these actions to constitute genocide.[18] The conflict triggered a humanitarian emergency in which some two million Darfuris were displaced and another 250,000 became refugees in neighboring Chad. As with the north-south war, casualty estimates in the Darfur conflict vary extensively. Studies suggest that between 100,000 and 500,000 died in the conflict's early years, some directly in violence and many more from malnutrition and disease.[19] For international actors pressing for a north-south peace agreement, Darfur considerably complicated efforts to engage Khartoum.

The Separation

On July 9, 2011, South Sudan declared its independence. This came more than six years after the SPLM and the government of Sudan signed the Comprehensive Peace Agreement (CPA) to bring an end to over two decades of civil war between north and south. The CPA was based on a stated commitment by both parties to a democratic system of governance, through which the SPLM and the ruling National Congress Party (NCP) formed a unity government.[20] The CPA enshrined the south's right to self-determination at the culmination of a 6.5 year implementation period (hereafter "the CPA period"). Some saw the CPA as a framework for addressing southern grievances within a unified Sudan, in part by devolving some authority to a semi-autonomous southern government.[21] It failed to do so, and southern Sudanese voted overwhelmingly in a

[17] The PDF are paramilitary forces tasked through Sudan's Popular Defence Forces Act of 1989 with assisting the armed forces as ordered by the Sudanese president.

[18] Testimony of Secretary of State Colin Powell, Senate Foreign Relations Committee (SFRC), *The Current Situation in Sudan and the Prospects for Peace,* September 9, 2004.

[19] See, e.g., Olivier Degomme, "Mortality in the Darfur Conflict," (dissertation, Université catholique de Louvain, February 2011), available from the Centre for Research on the Epidemiology of Disasters at http://www.cred.be/publications.

[20] The CPA committed the parties to "a negotiated settlement on the basis of a democratic system of governance which, on one hand, recognizes the right of the people of Southern Sudan to self-determination and seeks to make unity attractive during the Interim Period, which at the same time is founded on the values of justice, democracy, good governance, respect for fundamental rights and freedoms of the individual, mutual understanding and tolerance of diversity within the realities of the Sudan." It set in motion a 6.5 year timeline, from January 2005 to July 2011, during which the two parties agreed to work together in the context of a unified state.

[21] Dr. John Garang, the long-time leader of the SPLM, died in a helicopter crash in 2005, months after the CPA was signed. Garang had outlined a vision of a democratic, secular "New Sudan" that included both north and south, but with (continued...)

January 2011 referendum to secede from the north. Six months later, the Republic of South Sudan was recognized as the world's 195th country, first by the government of Sudan, and then by the United States, the African Union (AU), the United Nations, and others.

To the surprise of many observers, the January 2011 referendum and South Sudan's July independence day passed without conflict between north and south. Relations between the two countries subsequently deteriorated, however, with the rhetoric on both sides increasingly bellicose and uncompromising as tensions mounted in the borderlands.

Talks between the two sides have continued, and the negotiators have made some concessions that are considered promising. Underlying security issues, however, continue to complicate their relationship. South Sudan accuses Khartoum of backing "proxy" militias in its territory, as the latter was widely believed to have done during the war. Likewise, Sudan accuses the SPLM, now South Sudan's ruling party, of providing support for insurgent groups operating within the north—namely former divisions of the SPLA now known as the SPLA-N, as well as armed groups in Darfur. Since late 2011, the Sudanese Armed Forces (SAF) have conducted periodic air strikes across the South Sudan border, including in the vicinity of refugee camps, purportedly in pursuit of SPLA-N and Darfuri rebels. In April, this prompted the SPLA to seize and temporarily occupy Heglig, a disputed oil production area claimed by Sudan, from which South Sudan accused Sudan of launching attacks. The SPLA later withdrew under international pressure.

Outstanding Issues and Disputes

Despite their formal separation, Sudan and South Sudan remain linked by—and divided over—a range of shared interests and outstanding disputes. The CPA did not define the relationship between north and south in the event of a southern vote for separation, and arrangements on multiple issues were left unresolved when Sudan split. Among the disputed issues are those related to their shared border, citizenship, and financial arrangements, including those pertaining to revenues from the sale of South Sudanese oil that transits Sudan for export. Other arrangements called for in the CPA, such as resolution of the final status of the contested border region of Abyei and the implementation of "popular consultation processes" for the people of Southern Kordofan (see below), have yet to be fully implemented.

Negotiations on these issues began in Ethiopia in 2010, under the auspices of the AU High-Level Implementation Panel on Sudan (AUHIP), led by former South African President Thabo Mbeki. Donors who had played a key role in the peace process, including the United States, offered incentives to encourage Khartoum to recognize the result of the south's referendum and ensure a peaceful transition. Sudan's military operations in the borderlands and related human rights violations have discouraged the delivery of support to Khartoum. On both sides, many other potential peace dividends have remained out of reach.

(...continued)

his death, advocates of separation, including his successor Salva Kiir, increasingly disengaged from efforts to pursue democratic change in Khartoum. For many southerners, it seemed, the trauma of the war had fueled resentment against the north for too long. Many observers also suggest that Khartoum did little to make unity attractive to southerners.

Financial Arrangements

The secession of South Sudan was a major financial blow to Sudan, which lost 75% of its five billion barrels of known oil reserves. Throughout the war, the south received little benefit from its oil resources, which were controlled by Khartoum. From 2005 to 2011, per the CPA, revenues derived from southern oil were to be split evenly between north and south. Prior to separation, when the revenue sharing arrangement expired, oil represented 90% of Sudan's export earnings and 60% of government revenues. Once oil revenues began to accrue to Juba under the CPA, they comprised 98% of the south's total revenues.[22] When the land-locked south became independent, it remained reliant on northern infrastructure to export its oil, which was pumped through pipelines to the northern city of Port Sudan on the Red Sea for refining and export.

As the CPA period drew to a close in 2011, deliberations on the future management of South Sudan's petroleum sector, including pipeline rental, transit fees, port services, and joint development options, were ongoing, and they were considered pivotal to other negotiations between Juba and Khartoum. Sudan, seeking to offset the loss of its 50% share of the south's oil revenues, demanded oil transit and processing fees of $32-36 per barrel. South Sudan's significantly lower counter-offers of under $1 per barrel were more in line with international standards for transit fees, according to the U.S. Energy Information Administration, but did little to address Sudan's massive revenue loss. With South Sudan dependent on Sudan's refining and export infrastructure to get its primary commodity to market, the international community views the two countries as economically co-dependent, at least in the near term, and initially assumed that this co-dependence could be a stabilizing factor in their relationship. In the past year, both governments have demonstrated in decisions and public statements the flaws in this assumption.[23]

The extent to which the relationship between the Sudans had soured after separation became apparent in January 2012, when South Sudan shut down all of its oil production. Juba accused Khartoum of detaining outbound tankers and diverting more than $800 million worth of oil as it was being exported through Sudan. By this time, South Sudan reported that it had not received oil revenues for several months. Sudan acknowledged diverting oil, claiming that South Sudan owed roughly $1 billion in unpaid transit fees—a figure Khartoum based on the fee rates it was demanding in the negotiations.[24] Days after halting production, South Sudan signed an agreement with Kenya to build a new pipeline to the Kenyan port of Lamu as an alternative export route. It has also explored the possibility of a pipeline through Ethiopia to Djibouti's Red Sea port. Most experts, however, surmise that South Sudan will struggle to find capital for such projects unless new oil discoveries are made. By many estimates, construction of a new pipeline and new port facilities will take years even if capital is forthcoming, leaving both governments with a massive loss of much-needed revenue unless southern oil exports through Sudan resume.

The parties have discussed additional incentives that Sudan considers necessary to address its so-called "financial gap"—the near-term economic impact of losing the south's resources. The two sides came to a tentative agreement in August 2012 that was finalized in late September, based in

[22] Oil statistics draw from the U.S. Energy Information Administration, "Sudan and South Sudan," *Country Analysis Briefs*, March 19, 2012, unless otherwise indicated.

[23] In a July 9, 2012 Independence Day speech, President Kiir pronounced, "to the extent that we depend on others, our liberty is incomplete." Text of the speech is available at http://www.goss-online.org.

[24] South Sudan had not paid transit fees since independence, but it had maintained a commitment to paying back charges once the fees were agreed to by the negotiators.

part on Juba's offer of a direct cash transfer of more than $3 billion to compensate Khartoum for lost revenues, in addition to the payment of transit fees. The package represents roughly one-third of Sudan's estimated financial gap. Khartoum will be responsible for filling another third and expects the international community to cover the remainder through grants and debt forgiveness. Khartoum also anticipates increased income from renewed trade opportunities when economic sanctions are lifted. Advocacy groups have called for international actors to insert conditionality into any financial support to Khartoum.[25] South Sudan's concession to offer Sudan the $3 billion, which amounts to roughly 15% of its own revenues over a 3.5 year period, is unprecedented—one of the world's least developed countries would become, at the same time, both a major aid recipient and a major donor. Some analysts have suggested that the offer may be perceived by the people of South Sudan as a "multi-billion dollar lifeline" to President Bashir.26

South Sudan's oil fields remained inactive after the August deal—both sides had tied its implementation to the conclusion of talks on security issues. The September agreements address some, but not all of those issues, but the parties have agreed that oil flows will resume in the interim (see **Appendix A**). Experts say it will take months for production and exports to restart; repairs to some facilities, which were reportedly damaged in air strikes, may take up to a year. In the interim, both countries are likely to require short-term external assistance and/or loans. Both countries are opening new blocks to exploration in the search for new revenues, which Juba hopes will result in new finds that might spur investment for the construction of alternative pipelines.

Debts and Debt Relief

With separation, Sudan retained the full burden of its extant sovereign debt. Khartoum has repeatedly endeavored to link that debt, estimated at more than $40 billion—much of it in arrears—to the oil talks. Juba has refused to assume part of the debt, arguing that the south received no benefits from the loans incurred by Khartoum during the war. Almost 90% is owed to bilateral and commercial creditors, and Khartoum, having lost most of its oil revenues, is now struggling to make debt payments. Some donors, including the United Kingdom, to which Sudan owes $1 billion, and the United States, to which it owes more than $2 billion, have pledged debt forgiveness if certain criteria are met. The State Department requested $250 million in its FY2013 budget to meet potential U.S. bilateral debt relief commitments under the Heavily Indebted Poor Country (HIPC) framework (should Sudan become eligible). The $250 million package is the estimated cost of forgiving 100% of Sudan's debt to the United States. The obligation of funds, currently prohibited by Congress through March 2013, would depend on Sudan's ability to meet both congressionally imposed requirements tied to debt relief, including those related to human rights and state sponsorship of terrorism, and Administration conditions such as the resolution of outstanding CPA issues.[27] These are unlikely to be met under current circumstances, forcing Khartoum to negotiate with its traditional financiers—the Gulf States and China.

[25] See, e.g., Jenn Christian, "The Case for Conditioning International Financial Support to Sudan," The Enough Project, August 21, 2012.

[26] European Coalition on Oil in Sudan, "Why Sudan Should Accept South Sudan's Financial Package," July 30, 2012.

[27] The Consolidated Appropriations Act, 2012 (P.L. 112-74) prohibited funding to modify loans held by Sudan. The Continuing Appropriations Resolution, 2013 prohibits activities for which funds were not appropriated in FY2012.

Impact of South Sudan's Oil Shutdown

The loss of oil revenue has had a substantial impact on the economies of both countries in 2012. Both sides lost their largest source of foreign exchange, and the cost of living has risen sharply. The implications for Sudan are evolving. Unlike South Sudan, Khartoum does have some other existing sources of revenue from which to draw, and efforts to diversify the economy are underway. Khartoum already had austerity measures in place when South Sudan separated and the shared oil revenue arrangement ended. By early 2012, however, the worsening economic situation was putting increasing pressure on the government. Inflation and cuts in fuel and sugar subsidies have triggered public protests, which have drawn a harsh response from Khartoum and led some observers to question whether Khartoum might ultimately face a broader "Arab Spring"-style uprising. The subsidy cuts have also drawn criticism from some in the ruling party.

The economic impact of the oil shutdown in South Sudan has been more severe, but, to date, less visible.[28] The finance ministry has forecast that gross domestic product (GDP) will contract by 70% in 2012 as a direct result of the shutdown; the indirect effect of reduced government spending will significantly further constrain the economy. The country is estimated to have lost more than $3 billion in the first half of 2012—export earnings from which the government would otherwise have drawn almost all its revenue.[29] Juba has worked to increase non-oil revenues, primarily through improved tax collection, but the tax base remains extremely limited. Initial austerity measures were announced in March, but real budget tightening did not commence until mid-2012, at which time the government began to draw from reserves. Under the new budget, the government has given priority to maintaining civil servant salaries, notably including those of the security forces, and related spending for maintaining national security. Spending on social services, including health and education, has been cut by 20%.[30] Capital outlays and other development spending have been reduced or suspended. The suspension of major infrastructure projects, particularly roads, will further stifle South Sudan's economic potential and hinder efforts to diversify the economy in the near term.

Because the majority of South Sudan's population rely on subsistence agriculture and remain largely outside the cash economy, measuring the impact of inflation on the population has been difficult. Rising costs and a scarcity of certain market items have had a discernible effect in urban areas and those states that border Kenya and Uganda (they are more exposed to cross-border trade).[31] The government is the largest employer in the formal economy, and its ability to maintain salaries and avoid large-scale layoffs until revenue flows resume may be critical to avoiding unrest. Fuel shortages are an increasing problem (although very few South Sudanese own cars), affecting primarily trade, government operations, and aid efforts. South Sudan is heavily reliant on food imports—despite significant potential capacity for self-sufficiency—and rising costs have led the United Nations to revise its estimates of food aid needs. The initial decision to cease production was greeted by widespread patriotic enthusiasm. In the context of public expectations regarding post-independence development, however, domestic views of the decision have appeared increasingly mixed.[32] South Sudan has yet to experience the popular protests that have plagued Sudan. Fiscal discipline will likely be a priority in the coming months until exports resume, and the government is seeking external financing, while attempting to avoid loan terms that will create an unsustainable debt burden. The government secured a $100 million line of credit from Qatar in June for imports, namely food, fuel, medicine, and building supplies; it is expected to be depleted before the end of 2012. Juba is reportedly in negotiations with an international bank for another $200 million credit line.[33] The International Monetary Fund announced in September that South Sudan is eligible for concessional borrowing. Western donors have been reluctant to provide direct budget assistance to the government, based in part on corruption concerns.

[28] Analysis is based on the author's travel to South Sudan in August-September 2012 and multiple interviews in Juba.

[29] South Sudan produced 340,000 barrels per day (bpd) prior to January; Sudan produces some 110,000 bpd in its own territory. Prior to separation, the U.S. Energy Information Administration estimates that Sudan produced 470,000 bpd in 2010, of which it consumed 98,000 bpd domestically. For more information, see UN IRIN, "South Sudan: Briefing – Life Without Oil," February 14, 2012.

[30] South Sudan's 2012/2013 budget is available at http://www.goss-online.org.

[31] For more information on public attitudes in these states, see a recent survey conducted in Greater Equatoria by the International Republican Institute (IRI), available at http://www.iri.org. In that survey, 95% of respondents said that goods at local markets were more expensive than in mid-2011.

[32] Ibid. According to the IRI survey, 49% of respondents supported the decision; 43% opposed it. More than three-quarters of respondents expected that the decision would affect the amount of services the government could provide.

[33] "South Sudan Seeks $200 million Credit Line for Imports," Reuters, September 17, 2012.

Disputes along the North-South Border

Sudan and South Sudan have generally agreed to use the administrative dividing line between north and south that the British used until Sudan's independence in 1956 as their common border. That borderline has yet to be demarcated, however, and approximately 20% remains disputed.[34] The borderlands were the front lines of the civil war, and negotiations to conclusively define the precise location of the border have been complicated by grievances and distrust among the communities who live along it, and by the concentration of oil reserves in these areas. The African Union has proposed that the Sudans maintain a "soft border" that would allow social and economic interaction and promote peaceful coexistence among border communities. In three border regions, Abyei and the states of Southern Kordofan and Blue Nile, heavy military deployments and unresolved political issues—fueled by local disputes over governance, land, and natural resources—reignited simmering conflicts toward the end of the CPA period. Southern Kordofan and Blue Nile remain in open conflict. As a result, Sudan closed the north-south border in 2011, halting the movement of civilians and all cross-border trade, and instituting harsh penalties, including capital punishment, for violations. The parties agreed in the September 2012 accord to re-open the border.

Abyei

This region between Sudan and South Sudan was accorded "special administrative status" under the CPA, and it has repeatedly been a flashpoint for violence between north and south.[35] Under the terms of the CPA, the residents of Abyei were to determine, through a referendum, whether to retain their special status in Sudan or to join South Sudan. The referendum has yet to occur. Abyei is home to the Ngok Dinka, a subset of South Sudan's largest ethnic group, who were heavily displaced during the war. The area has also long been used by the Misseriya, an Arab nomadic group, who migrate south through Abyei seasonally to graze their cattle. Many Misseriya fought in PDF militias allied with Khartoum during the civil war, while most Ngok Dinka supported the SPLM. The Ngok Dinka accuse Khartoum of settling tens of thousands of Misseriya in the area and arming them to fuel instability. During the CPA period, Khartoum accused the SPLA of building its presence in the area and arming the local population.[36] Territorial claims to Abyei were once considered particularly contentious because of its oil reserves, estimated in 2004 to represent almost a quarter of Sudan's annual oil production. Production in Abyei subsequently declined, however, and in 2009 an international court of arbitration ruled that region's major oil fields, including Heglig, were outside the area under consideration in Abyei's referendum.[37] Today, Abyei's significance is driven much more by politics and cultural attachment than by oil.

The Abyei referendum was to have been held simultaneously with that of South Sudan, but disputes related to the region's border and voter eligibility delayed the process, and talks were repeatedly postponed. Clashes between southern Sudanese forces and the SAF in May 2011, and the SAF's subsequent occupation of Abyei town, displaced some 100,000 people, most into South

[34] See, e.g., Concordis International, *More Than a Line: Sudan's North-South Border*, September 2010.

[35] During the Interim Period, Abyei residents were considered citizens of both the northern state of Southern Kordofan and the southern state of Bahr el Ghazal. The CPA was not the first peace agreement to accord Abyei the right to a referendum on self-determination—the 1972 Addis Ababa agreement likewise did so, but was never implemented.

[36] For more information, see, e.g., two reports by the Small Arms Survey: "Militarization in Abyei," HSBA, October 2010, and Joshua Craze, *Creating Facts on the Ground: Conflict Dynamics in Abyei,* Working Paper 26, June 2011.

[37] Per the court ruling, Diffra, the only field that remains in Abyei, represents roughly 2% of Sudan's total production.

Sudan, where many remain today. In response to the violence, escalating tensions, and population displacement, and following vigorous negotiations led by Ethiopia, the U.N. Security Council passed UNSCR 1990 in June 2011, authorizing a new peacekeeping operation, the U.N. Interim Security Force for Abyei (UNISFA), composed of Ethiopian troops. In late 2011, the Security Council authorized UNISFA to also take on broader border monitoring responsibilities across the entire north-south border, in coordination with Sudan and South Sudan. Both sides were slow to respond to efforts to commence monitoring, due to disagreement on the borderline.

With the presence of UNISFA, the security situation in Abyei has remained tense but stable; however, only a fraction of the displaced have returned. In 2012, the annual Misseriya migration was peaceful for the first time in years.[38] Sudanese and South Sudanese security forces maintained a presence in the area in contravention of U.N. resolutions and a June 2011 agreement between the parties until mid-2012, when South Sudan, and then Sudan, withdrew their forces. South Sudan alleges that some Sudanese soldiers remain in Abyei disguised as "oil police," whom Khartoum has refused to withdraw. The two countries have yet to establish a local civilian administration and police service, despite agreeing to do so; this has discouraged residents from returning. As the parties continue to negotiate on Abyei's final status, options reportedly discussed include Khartoum ceding Abyei to South Sudan—through referendum or otherwise—in exchange for Misseriya grazing rights and financial incentives, partitioning the area between the Sudans, or placing the region under international administration.[39]

Southern Kordofan and Blue Nile

Southern Kordofan and Blue Nile, like Abyei, are resource-rich, culturally diverse areas along the north-south border that received special administrative status under the CPA. The conflict that has plagued these states for decades is emblematic of center-periphery struggles that have characterized most of Sudan's modern history. Unlike Abyei, however, the two states were not granted the option of self-determination under the CPA, given that both lie north of the 1956 border. Instead, the CPA proposed a "popular consultation" process, an ambiguous mechanism intended to offer greater autonomy for these states within Sudan.[40]

Many residents of these states, driven by their own grievances against Khartoum, sided with the SPLA in the civil war. Southern Kordofan's Nuba Mountains region was devastated by SAF air and ground assaults and PDF militia attacks in the 1990s, when severe human rights violations were reported by the State Department and others.[41] Khartoum denied aid agencies access to the region for 15 years. As a result, the population, which was forced into the hills by bombings and largely unable to farm, had to rely on unauthorized relief flights outside the Operation Lifeline Sudan (OLS) system.[42] Congress was active in trying to get aid into these restricted areas from the mid-1990s through the 2002 ceasefire brokered by the United States and Switzerland.

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[38] *Report of the Secretary-General on the Situation in Abyei*, U.N. Document S/2012/68, January 27, 2012.

[39] International Crisis Group (ICG), *Negotiating Sudan's North-South Future*, Africa Briefing No. 76, November 23, 2010; and Enough Project, Sudan Peace Watch, December 21, 2010.

[40] The CPA defined popular consultation as a democratic process through which the two states' legislatures would either endorse the special distribution of wealth and power given to those states under the CPA, taking into account the views of the states' residents, or require the state governments to negotiate a new agreement with Khartoum.

[41] See, e.g., Rep. Frank Wolf, "Calling for Action Against Slavery in Southern Sudan," remarks in the House, *Congressional Record* (May 12, 1993), p. H2453. Wolf's remarks reference declassified State Department documents.

[42] OLS was a consortium of U.N. agencies and non-governmental organizations established in 1989 to respond to (continued...)

Figure 2. Map of the Sudans' Contested Border

Source: Congressional Research Service.

Many people in the affected areas felt abandoned by the SPLM in the final CPA deal. Local SPLM leaders remained popular, however, and together with other northern SPLM members they formed a new political party, the SPLM-N. Mistrust of Khartoum remained high among SPLM-N supporters throughout the CPA period. The areas also remained heavily militarized, with large troop deployments by both sides, in contravention of the CPA. In Blue Nile, the CPA-mandated

(...continued)

humanitarian needs in the war-torn south through negotiations between the U.N., the government, and the SPLM. The arrangement, which enabled one of the largest international relief efforts in history, allowed access to civilians in need during ongoing conflict, but it also gave Khartoum effective veto authority over flights to certain areas. It additionally granted both sides authority over which agencies could deliver aid.

political processes, including the state elections and popular consultation effort proceeded, albeit with delays, under the leadership of a former SPLA commander, elected Governor Malik Agar.

In Southern Kordofan, state elections, which were a precursor to the popular consultation process, were repeatedly postponed, and tensions were high when they were finally held in May 2011. Khartoum's candidate, Southern Kordofan Governor Ahmed Haroun, who is sought by the International Criminal Court (ICC) for war crimes in Darfur,[43] defeated the SPLM-N candidate, Abdul Aziz al Hilu, in a bitterly contested election.[44] The Sudanese military then demanded that local SPLA forces, who had remained stationed in the two states throughout the CPA period (some as part of joint units), be immediately withdrawn to South Sudan. The SPLM-N rejected Sudan's demand, given that these fighters were residents of the two states, rather than of South Sudanese origin; they argued that CPA-mandated processes for addressing their status remained unfulfilled.[45] Fighting broke out in Southern Kordofan in early June 2011, when Haroun ordered that the fighters be forcibly disarmed. The SPLA-N quickly made territorial gains that appear to have given them a military advantage against the SAF, despite heavy aerial bombardment.

Access to both states has been extremely limited since hostilities began in 2011, but reports by the media and human rights groups suggest that the SAF and allied militia may be responsible for grave human rights violations.[46] According to a U.N. report from the first month of the fighting,

> Instead of distinguishing between civilians and combatants and accordingly directing their military operations only against military targets, the SAF and the paramilitary forces have deliberately targeted civilians and civilian objects including churches, and have engaged in acts or threats of violence for the sole purpose of terrorizing them through targeted killings, abductions, arbitrary arrests and detentions, and aerial bombardments resulting in forced movements of the people of Southern Kordofan out of their homes and out of the state.[47]

The U.N. Office of the High Commissioner for Human Rights released a report in August 2011 stating that actions by the Sudanese military "may constitute war crimes and crimes against humanity."[48] High Commissioner Navi Pillay has reiterated concerns about the government's "indiscriminate aerial bombardments and scorched earth policies" in more recent statements.[49]

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[43] Haroun, according to the ICC prosecutor, was responsible for mobilizing the PDF militias in the Nuba Mountains in the 1990s (a period and location outside the ICC's jurisdiction in Sudan The International Criminal Court). Office of the Prosecutor, *Public Redacted Version of Prosecutor's Application under Article 58 filed on December 2, 2011*.

[44] Abdul Aziz, who was the SPLA commander in the region during the civil war, had served as the state's first governor after the signing of the CPA. Carter Center monitors deemed the state's 2011 election "peaceful and credible"; others questioned the poll's legitimacy.

[45] Under the terms of the CPA, the joint units were to be dissolved during a six month window after the end of the Interim Period (i.e., between July 2011 and January 2012), with the forces incorporated into one of the two armies.

[46] UNMIS Human Rights Section, *UNMIS Report on the Human Rights Situation During the Violence in Southern Kordofan*, June 2011; Human Rights Watch, "Sudan: Blue Nile Civilians Describe Attacks, Abuses," April 23, 2012 and "Sudan: Southern Kordofan Civilians Tell of Air Strike Horror," August 30, 2011; and reports by the Satellite Sentinel Project, available at satsentinel.org.

[47] UNMIS Human Rights Section, *UNMIS Report on the Human Rights Situation During the Violence in Southern Kordofan Sudan*, June 2011.

[48] Office of the U.N. High Commissioner for Human Rights (UNHCHR), *Preliminary Report on Violations of International Human Rights and Humanitarian Law in Southern Kordofan from 5 to 30 June 2011*, August 2011.

[49] U.N. High Commissioner for Human Rights Navi Pillay, Opening Remarks at the Human Rights Council 21st Session, September 10, 2012.

The security situation in Blue Nile initially remained stable after the outbreak of hostilities in Southern Kordofan, but the issue of SPLA disarmament triggered violence in Blue Nile in early September 2011, prompting President Bashir to declare a state of emergency in Blue Nile and dismiss Governor Agar. Agar and Aziz, along with several Darfuri rebel groups, subsequently formed the Sudan Revolutionary Front (SRF), with Agar chosen as the alliance's chairman. Its stated aim is to overthrow the National Congress Party and establish a democratic state in Sudan.

AU efforts to mediate directly between Khartoum and the SPLM-N have been unsuccessful to date. A framework agreement on political and security arrangements reached between the parties' negotiators in late June 2011 was subsequently rejected by President Bashir. In May 2012, the U.N. Security Council called on the parties to reach a negotiated political settlement, rather than a military solution, based on that agreement. The Security Council adopted UNSCR 1997 (2011) to establish a peacekeeping operation in the two states; Sudan has not consented to such a presence.

Throughout the current conflict, access by relief agencies to populations in both states has been extremely limited, and humanitarian conditions have deteriorated dramatically.[50] The violence over the past year has kept residents from harvesting crops, and government restrictions have prevented the flow of food and medicines. Khartoum has restricted aid access in government-controlled areas and denied access to areas held by the SPLM-N. Experts suggest that the condition of refugees arriving at camps across the border in South Sudan and Ethiopia is likely indicative of conditions inside the two states—refugees who fled in 2011 were primarily fleeing the violence and moving in anticipation of coming food shortages. By mid-2012, when the rate of arrivals increased dramatically, the lack of food became an increasing motivation for flight.[51] New arrivals to the camps are malnourished, leaving them particularly vulnerable to disease. AU, U.N., and Arab League representatives have, to date, been unable to secure access to SPLM-N areas from Khartoum under a so-called "Tripartite Proposal" for independent third-party monitors and relief agencies, although several agreements toward this end have been signed.[52] In the absence of a ceasefire, a full-scale relief effort for the conflict zones appears unlikely.

Normalizing Relations Between the Sudans

The working relationship built between the NCP and the SPLM during the CPA period has deteriorated dramatically in the past year. Inflammatory rhetoric, such as President Bashir's vow at a rally in April to free the south from the "insect" SPLM government and "eliminate this insect completely," has fueled mistrust, as have cross-border incursions, be they SAF air strikes in the south or the SPLA assault on Heglig.[53] Alleged support for rebels in each other's territory further complicates their relationship. Prior to the September 2012 deal, Khartoum had insisted that no deal on outstanding issues, including southern oil exports, would be implemented until security arrangements were in place to address South Sudan's alleged support for Sudanese rebel groups.

[50] See, e.g., "USAID, Sudan – Complex Emergency," Fact Sheet #5, FY2012, August 17, 2012; Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator Valerie Amos, Statement on Sudan, June 28, 2012; Statement by the President of the Security Council on the Reports of the Secretary-General on the Sudan, U.N. Document S/PRST/2012/19, August 31, 2012.

[51] Interviews with U.N. and other aid officials in Juba and Yida, South Sudan in late August 2012.

[52] For advocacy views on this issue, see, e.g., U.S. Commission on International Religious Freedom, "Sudan: Humanitarian Access into Southern Kordofan and Blue Nile States," Policy Brief, September 2012.

[53] "Bashir Threatens South Sudan's Ruling Party," *Al Jazeera*, April 19, 2012.

The relationship between South Sudan's ruling party and the SPLM-N today is ambiguous. They formally became two separate organizations on July 9, 2011, but remain tied by historic bonds and close relationships. Senior SPLM-N officials were members of the SPLM leadership prior to the south's separation, and SPLM-N Secretary-General Yasir Arman was the SPLM's presidential candidate in the 2010 national elections.[54] SPLM officials have expressed solidarity with marginalized groups in Sudan, including the SPLM-N, but the government denies any formal link with the insurgency. The relationship between the SPLA and the SPLA-N (the armed wing of the SPLM-N) is equally complicated. Until separation, the armed units in Southern Kordofan and Blue Nile comprised the 9th and 10th battalions of the SPLA. Many experts argue that Juba likely no longer maintains command and control over these forces, and the Small Arms Survey, an independent research unit based in Geneva, reports that while evidence suggests that the SPLA-N has received some military support from the SPLA, "the majority of its supply derives from the capture of SAF weapons on the battlefield."[55] Allegations of South Sudanese military support for other SRF groups remain unverified, but multiple reports suggest the groups do enjoy safe haven in South Sudan, despite a stated commitment by both Sudans not to harbor or support rebels.[56]

The U.N. Security Council has maintained a significant focus on Sudan-South Sudan issues and has committed itself to a vision of "two economically prosperous states living side-by-side in peace, security, and stability."[57] In May, the Security Council adopted UNSCR 2046 (2012), outlining expectations that the parties reach agreement on outstanding issues by August 2, 2012; that deadline passed without agreement. The September agreement addresses some, but not all, of these issues, and the Security Council is expected to deliberate in October on the way forward.

South Sudan: Persistent and Emergent Challenges

The Republic of South Sudan emerged in 2011 not only as the world's newest nation, but also as one of its least developed. After almost 40 years of nearly continuous war, during which more than four million people were displaced, its human development indicators are among the world's lowest, infrastructure is sparse, and literacy rates are extremely low. Almost half the population may face food insecurity in 2012. South Sudan enjoys a bounty of natural resources and its agricultural potential is enormous. However, with only one paved highway (funded by USAID), running roughly 120 miles from Juba to the Ugandan border, accessing regional and world markets will require years of large-scale investment. The government's decision to halt oil production and consequently cut its 2012 development budget, is expected to significantly delay the pace of post-war recovery, despite considerable international good will and donor resources. The majority of the population has appeared ready to give the government latitude and support, in spite of rising pessimism about the economy and the government's ability to deliver services.[58]

[54] Arman placed second after Bashir, gaining 21.7% of the vote despite his decision to boycott based on fraud concerns.

[55] Small Arms Survey, "Further Weapons Seized from SAF in Southern Kordofan," July 2012.

[56] Small Arms Survey, "Business as Usual: Arms Flows to Darfur 2009-2012," *Sudan Issue Brief 20*, September 2012.

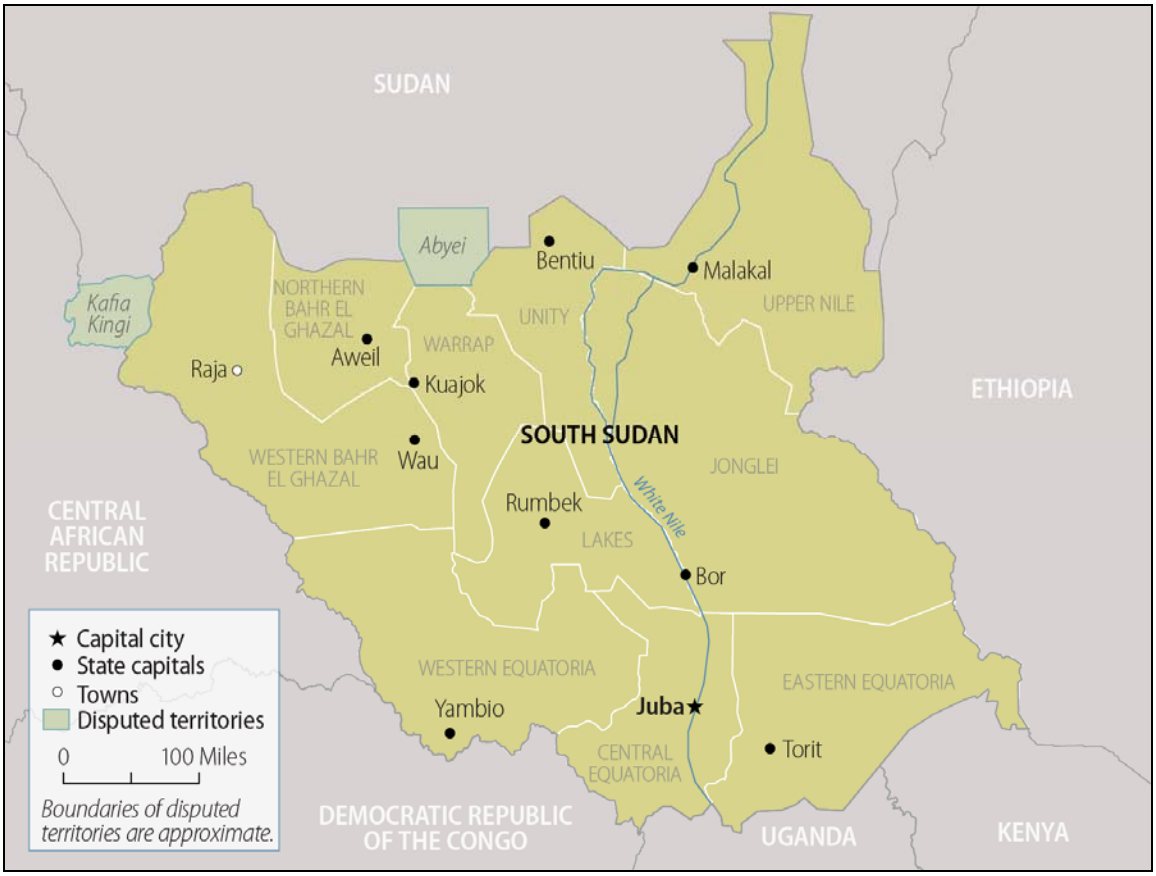
[57] UNSCR 2046 (2012), May 2, 2012.

[58] IRI, Survey of Greater Equatoria Public Opinion, May 21-June 15, 2012, available at http://www.iri.org. In that survey, President Kiir and the army were viewed favorably by 80% and 81% of the surveyed population, respectively.

Governance and Development Challenges

South Sudan's development challenges loom large, particularly given the extremely low rates of literacy in the government and civil service. Despite its agricultural potential, the population remains heavily dependent on rain-fed, subsistence farming, and output falls far short of needs. Conflict and population displacement in parts of the country, inflows of southern returnees and refugees from Sudan, and various environmental shocks place additional stress on South Sudan's limited resources and contribute to widespread humanitarian needs.[59] The lack of government revenues until oil exports resume places further strain on already limited service delivery and massive demands on diminished development funding. Austerity measures will further delay the government's plans to develop primary transit corridors, which are unpaved and become impassable in the rainy season. Infrastructure delays and security concerns may deter foreign investment in the near term. The government has given priority to security and the rule of law in its latest budget, but without new loans or grants it may be unable to fund even these sectors, should the oil deal's implementation be delayed. Donors look to South Sudan to take greater steps toward fiscal discipline and transparency before they will consider additional direct support.

Figure 3. Map of South Sudan



Source: Congressional Research Service.

[59] According to UNOCHA, more than 2 million internally displaced persons (IDPs) and over 331,000 refugees returned to their communities in South Sudan, Abyei, Southern Kordofan, and Blue Nile during the CPA period.

The United States, which is the single largest donor to South Sudan, has invested significant resources in the country's development. In December 2011, one month before the oil shutdown, the United States hosted an International Engagement Conference for South Sudan, providing a forum for Juba to showcase its development priorities and opportunities to foreign investors. The United States and other donors continue to work with the government to improve its capacity to govern and deliver social services transparently and effectively.[60] In April 2012, South Sudan became a member of the World Bank and the International Monetary Fund (IMF), both of which were already providing technical assistance. South Sudan is eligible for grants and concessional financing from the World Bank and the IMF, although financing from any of the multilateral financial institutions is not expected to provide the short-term relief Juba seeks in 2012. East African countries are also contributing to the effort—several hundred civil servants from neighboring countries have been detailed to Juba to provide skills training and fill capacity gaps.

High-level corruption is a major challenge. In May 2012, President Salva Kiir sent a letter to 75 senior officials who are reportedly suspected in the disappearance of several billion dollars in government revenues. The exact amount missing is subject to debate, but South Sudan's Auditor-General has confirmed that the government cannot account for at least $1 billion in revenues. A sizeable portion of the missing funds is linked to a three-year old scandal involving grain imports that were ordered to address food shortages but never received (this prompted a leadership change at the Finance Ministry, but no officials have been prosecuted). President Kiir, who reportedly stated in the letter that "the credibility of our government is on the line," offered amnesty to those who returned missing funds.[61] Senior officials are required by law to report their income, assets, and liabilities to a new anti-corruption commission, but it has little capacity to verify submissions.

South Sudan's government is dominated by the SPLM, which won the presidency as well as the majority of state and regional elections in April 2010.[62] The next elections are scheduled for 2014. The State Department reports that "newly-established governance institutions and systems remain extremely fragile and vulnerable to corruption, while the responsibilities and expectations of the national government have increased substantially."[63] In short, the challenges facing the government are great, and its capacity is limited. Among its many tasks are adopting a permanent constitution and transitioning to fully elected national and local governments, as required by the current transitional constitution. The State Department views support for South Sudan's development of democratic governance and its ability to deliver services and ensure the rule of law as critical. South Sudan is under pressure from human rights groups and donors to hold security forces and officials responsible for reported abuses. The development of legal and regulatory frameworks to protect basic rights and freedoms, such as freedom of speech, and to address issues of property ownership and labor rights, may serve as important benchmarks for donors and investors alike.

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[60] For an overview of U.S. and other donor government initiatives, see Fact Sheet by the White House Office of the Press Secretary, "Supporting South Sudan's Vision for the Future," December 15, 2011.

[61] "South Sudan Officials Have Stolen $4 Billion: President," Reuters, June 4, 2012.

[62] The April 2010 elections were Sudan's first multiparty, relatively democratic elections since 1986. The U.S.-based Carter Center, which observed the polls, concluded in its December 2010 report that they did not meet international standards, but that "despite persistent challenges ... observers noted an important democratic opening across the country during the candidate nomination phase, campaigning, and in the lead-up to the elections, particularly in Southern Sudan." Interference in the campaigns by security agencies, particularly the SPLA, was reportedly widespread.

[63] State Department, *Congressional Budget Justification for Foreign Operations, FY2013.*

Security Issues

South Sudan faces a range of persistent and emergent security threats that will pose challenges for years to come. The potential for localized insecurity in some areas is high. South Sudan is awash in small arms, and armed cattle raids and violent disputes over land and water rights are common. Inter- and intra-ethnic fighting claims thousands of lives annually. The SPLM was driven by an internal battle in the 1990s, largely along ethnic lines, and the ethnic grievances that sparked that conflict still lie beneath the surface of South Sudanese politics.[64] Boundary disputes with Sudan remain a significant concern. Both sides have large numbers of troops deployed near the border, increasing the possibility that isolated skirmishes could quickly devolve into broader conflict. In the event of SAF military operations, the SPLA has limited ability to defend against air strikes.[65]

Militias remain active in parts of the country, complicating stabilization and recovery efforts. As part of its reconciliation efforts with various southern political and armed groups, South Sudan's military has absorbed tens of thousands of fighters from the militias, some of which were allegedly backed by Khartoum during the war.[66] Several militia leaders were given amnesty. The 2010 elections, however, spurred the creation of new militias, as some who felt excluded from the political process resorted to armed resistance against the state.

In Jonglei, South Sudan's most populous state, a militia led by David Yau Yau is causing increasing concern. The SPLM has accused Khartoum of providing Yau Yau with material support, namely weapons.[67] Militias in Unity and Upper Nile states also remain a threat. The formerly Ugandan-based armed group, the Lord's Resistance Army (LRA), once also reportedly supported by Khartoum, continues to threaten and displace South Sudanese communities near the borders of the Central African Republic and the Democratic Republic of Congo, although the threat it poses is localized in comparison to other armed groups. South Sudan and Uganda publicly accused Khartoum of resuming support for the LRA in 2012 and suggest that LRA leader Joseph Kony may be hiding in the border area between the Sudans.[68]

In parts of South Sudan, the number of deaths due to interethnic violence, sometimes related to cattle raiding, has increased dramatically in recent years, and the violence appears increasingly politicized. In Jonglei, retaliatory attacks between the Lou Nuer and the Murle ethnic communities have resulted in large-scale population displacement and humanitarian need in the past year.[69] Local authorities have limited capacity to address these conflicts. The U.N. Mission in South Sudan (UNMISS), which was established in 2011 and is smaller than its predecessor, UNMIS, has faced major logistical challenges such as poor roads and a shortage of helicopters as it has worked to deploy peacekeepers to the area. The SPLA has conducted a civilian disarmament campaign in the state with mixed reviews; some communities have raised concerns

[64] The two primary SPLM factions, led by John Garang, a Dinka, and Riek Machar, a Nuer, reunited in the early 2000s. Machar is now Vice President of South Sudan; President Kiir is a Dinka. Another faction leader who also rejoined the SPLM, Lam Akol, later left and now leads an opposition party, SPLM for Democratic Change (SPLM-DC). There is a perception that the Dinka dominate the government, despite President Kiir's appointment of a diverse cabinet in 2011.

[65] ICG, *South Sudan: Compounding Instability in Unity State*, Africa Report No. 179, October 17, 2011.

[66] *In Need of Review: SPLA Transformation in 2006-10 and Beyond*, Small Arms Survey, November 2010.

[67] "S. Sudan Accuses Sudan of Supplying Arms to Rebel Group," Reuters, September 23, 2012.

[68] See, e.g., "Rebel Chief Kony 'in Sudan-S. Sudan Border Areas," AFP, April 30, 2012

[69] An estimated 170,000 people were affected by communal violence in Jonglei in early 2012. UNOCHA, South Sudan Consolidated Appeal Mid-Year Review 2012, July 4, 2012.

that disarmament is not being equitably enforced. Possible linkages between the militia activity in Jonglei and rising tensions among the Nuer and Murle communities raise questions about the capacity of the government, and UNMISS, to protect civilians should the situation deteriorate.[70]

The police service in South Sudan lacks the capacity to address many of these threats, leaving the SPLA to play a significant internal security role. The State Department reports that some SPLA stabilization and civilian disarmament activities have caused tensions with communities who claim that the SPLA is neither politically neutral nor well disciplined; some of these operations have reportedly resulted in displacement and deaths. [71] The State Department has also documented various human rights violations by SPLA troops. Some, but not all, of those accused of serious abuses have faced military justice. Some analysts suggest that the continued presence of senior SPLA officers at all levels of the South Sudanese government obscures the concept of democratic civilian control.[72] Given the many years of war from which South Sudan is emerging, the development of truly civilian leadership may take time. Donors are pursuing programs to promote governance skills along with a broader understanding of democratic concepts.

Humanitarian Access in South Sudan

Access to much of South Sudan is severely constrained during the rainy season, given the poor state of roads. As a result, humanitarian operations there are among the most expensive in the world. Communities throughout the country have been affected by recent flooding. The lack of all-weather roads to the camps where refugees from Southern Kordofan and Blue Nile have concentrated has forced aid agencies to airlift relief at significant expense. In some camps the rains have also contributed to the spread of water-borne diseases among the already vulnerable population. The U.N.'s refugee agency reports that mortality and malnutrition rates at the camps are above emergency thresholds. Aid groups are currently working to improve water, sanitation, and hygiene conditions. Yida camp in Unity state is the largest refugee settlement, with more than 60,000 people who have fled Southern Kordofan. Aid agencies can currently only access the camp by air, and its proximity to the Sudan border is a serious security concern for aid officials. Refugees have resisted calls to move. The SAF bombed Yida in November 2011; no casualties were reported. Insecurity in parts of the country periodically impedes access to other populations that have been internally displaced. Aid agencies report that isolated incidents of harassment of relief workers have become an increasing problem; donors have registered complaints with Juba.

Sudan: Economic and Center-Periphery Tensions

The Republic of Sudan faces an array of social, political, and economic challenges that are in many ways as daunting as those confronting its new southern neighbor. President Bashir's National Congress Party has thus far staved off the large-scale popular protests that several North African and Middle Eastern counterparts faced during the "Arab Spring," but economic pressure is mounting. Sudan's intelligence and security forces have been quick to respond to student-led uprisings that gained momentum in mid-2012. The government has reportedly warned against the public use of excessive force against protestors to avoid creating martyrs for the movement. Still,

[70] Interviews by the author in Juba, August 29-September 2, 2012.

[71] State Department, *2011 Human Rights Report: Sudan*, May 2012.

[72] Centre for International Governance Innovation, *Security Sector Reform Monitor,* November 2009.

several protesters were killed by police in Nyala, in Darfur, in late July. Reports of torture and lengthy detention without trial have prompted criticism from the U.S. government and others.[73] Some analysts suggest that rifts within the NCP and the armed services are increasingly apparent, and many contend that decision-making has been consolidated among hardliners in the military.[74]

Figure 4. Map of Sudan

Source: Congressional Research Service.

Political and Economic Pressures

As the government continues to struggle with multiple armed insurgencies in Darfur, the rebellions in Southern Kordofan and Blue Nile have opened a new southern front in Sudan's array of internal conflicts. These are costly engagements that the Sudanese government can scarcely afford—Sudan's economic growth is estimated by the IMF to have slowed 3.9% in 2011, and is expected to shrink by more than 7% in 2012. The government's willingness to use force against restive regions has drawn international condemnation and thus far precluded Sudan from normalizing relations with many Western countries, including the United States, despite significant counterterrorism cooperation, according to the State Department. Sudan continues to rely on other countries, such as China, Russia, and Qatar, for financing and arms acquisitions. Sudan has acknowledged a need to diversify its economy and to focus on the development of its

[73] See, e.g., Human Rights Watch (HRW), "Sudan: Torture, Abuse of Demonstrators," July 11, 2012.

[74] ICG, *Divisions in Sudan's Ruling Party and the Threat to the Country's Stability*, Africa Report 174, May 4, 2011.

agricultural potential, but the government's multiple military operations place an increased burden on an already tight government budget and may deter much-needed foreign investment.

The economic strain has placed increased political pressure on President Bashir and the NCP. By some accounts, many Sudanese hold Bashir personally responsible for the loss of South Sudan and its oil revenues, even within his own party. Some Islamist hardliners reject any concessions by Khartoum in the current north-south talks.[75] An alliance of opposition parties known as the National Consensus Forces (NCF) continues its call for major political reforms, namely a new constitution that enshrines basic rights and protect pluralism. The NCF is composed of Sudan's historic opposition parties—the Sufi sectarian-based Umma Party and Democratic Unionist Party (DUP), and the Communist party—as well as former members of the National Islamic Front who broke with Bashir. According to the State Department, the 2010 elections, in which Bashir won the presidency, did not meet international standards.[76] The NCF has called on the NCP to involve all parties, armed and unarmed, in a national dialogue and has urged the international community to press for a holistic approach to Sudan's myriad conflicts.

Sudan's opposition groups, including the NCF and the armed SRF, appear to share the short term aim of changing the government in Khartoum, but their parties' visions for post-NCP governance differ. Perhaps as a result, the young urban Sudanese who have led the anti-government protest movement, including members of *Girifna* ("We're Fed Up"), have no formal relationship with any particular opposition party or coalition, leaving some to question whether these seemingly disparate movements can mount a cohesive challenge to NCP rule. Many Sudanese see the traditional parties as weak and disorganized—in short, "all talk and no action," and these parties have yet to launch a coherent campaign to capitalize on the rising economic discontent.[77]

Within the NCP, reports of large-scale state corruption, including allegations directed at Bashir himself, have led to calls for internal party reform. Pragmatists within the party have stressed the need to draft a new permanent constitution, although many observers suggest such efforts are unlikely to lead to serious reforms in the way the NCP governs. The government appears increasingly sensitive to criticism, particularly of its austerity measures and subsidy cuts, as evidenced by multiple incidents of harassment of newspapers in 2012. Whether the SRF, the opposition parties, or the protest movement may pose a serious threat remains to be seen—some view the greatest potential threat to Bashir's rule as coming from rival party members or segments of the security forces. Bashir's position among Sudanese Islamists also continues to be challenged by his former ally turned political rival Hassan al Turabi, a member of the NCF.[78]

Sudan has been designated for over a decade by the State Department as a Country of Particular Concern for its serious and systematic violations of religious freedom. Blasphemy and defamation of Islam are illegal and apostasy (conversion from Islam to another religion) is punishable by death. Laws against indecent dress and other offences against morality and public order are applied. After an interlude of improved religious tolerance during the CPA period,

[75] "Sudanese Editor Wars Government of Popular Backlash Against Agreement with Juba," AFP, October 1, 2012.

[76] State Department, 2011 *Country Reports on Human Rights: Sudan,* May 2012.

[77] *Sudan: Assessing Risks to Stability,* Center for Strategic and International Studies (CSIS), June 2011.

[78] Turabi, who once led the Muslim Brotherhood in Sudan, was a leading ideological figure behind the National Islamic Front, the Islamist movement through which Bashir came to power. Turabi led the reorganization of the NIF into the NCP, but the two leaders differed on various issues and in 1999, as Turabi attempted to consolidate his own power within the party, Bashir dismissed Turabi as speaker of the National Assembly and dissolved the parliament. Their followers subsequently split into 2 parties—the NCP and Turabi's Popular Congress Party (PCP).

reports suggest that religious freedom violations are increasing, and that state-sanctioned "hate speech" by Islamic clerics is on the rise. The influence of Salafism is reportedly growing.[79] Attacks on churches and Sufi Muslim sites are of concern, and some Salafist groups appear to be specifically targeting opposition groups. Salafist imams have issued fatwas and heretical charges against Turabi and Sadiq al Mahdi, who is head of the Umma party and the Ansar religious sect.[80]

Some observers suggest that the government has ignored, if not encouraged, the violent rhetoric of Salafist groups, and Khartoum's initial public response to calls for protests against Western embassies in September 2012 drew criticism from Europe and the United States.[81] Protesters set fire to the Germany Embassy, and at least two protesters were killed by police in demonstrations on September 14 outside the U.S. Embassy. Reports suggest that an estimated 4,000 people were involved in the protests, which occurred after Friday prayers. Vice President Joseph Biden called his counterpart to assert the Sudanese government's responsibility to protect diplomatic facilities and ensure the protection of diplomats. Bashir's government deployed additional police to provide security near the embassies, but rejected a U.S. plan to deploy Marines to increase security of the embassy facilities and personnel. Non-emergency U.S. diplomatic personnel were temporarily evacuated from Khartoum, but the situation has since appeared to stabilize.

Conflict in Darfur

The conflict in Darfur continues to elude resolution, despite successive peace agreements and the presence of the world's largest, and most expensive, peacekeeping operation. The central government has historically struggled to govern the distant region.[82] Underlying tensions between Darfuri groups over land, water, and grazing rights had driven low-level violence in this arid land for decades. Arms flows to the region by both internal and external actors, including neighboring Libya and Chad, further fueled the violence. Described in 2004 by the State Department as "the worst humanitarian and human rights crisis in the world," what began as a conflict primarily between Arab and non-Arab ethnic groups, namely the Fur, Massalit, and Zaghawa, quickly deteriorated into a civil war characterized by "widespread and systematic" rape, torture, killings, forced displacement, and the looting and destruction of hundreds of villages.[83] The crisis drew a massive humanitarian response in the mid-2000s, stemming the casualties, but continuing insecurity in the region has discouraged almost two million displaced persons from returning to their homes.[84] In effect, the conflict created a large semi-urban population with few means of sustaining themselves economically. Many of the displaced remain reliant on food aid to survive.

Efforts to mediate peace accords in Darfur have been complicated by the repeated fracturing of rebel groups. The government of Sudan and one rebel faction, the Liberation and Justice

[79] State Department, *International Religious Freedom Report for 2011,* July 30, 2012, in accordance with P.L. 105-292.

[80] Jamal Al Sharif, "Salafis in Sudan: Non-Interference or Confrontation," Al Jazeera Center for Studies, July 3, 2012.

[81] The protests were reported to be linked to a U.S. film with an unflattering depiction of the prophet Mohammed. Protestors reportedly targeted the German Embassy in response to German right wing demonstrations in front of Berlin mosques and to a German press freedom award granted to a cartoonist who had negatively depicted Mohammed.

[82] For background on Darfur, see, e.g., J. Millard Burr and Robert O. Collins, Darfur: The Long Road to Disaster (Princeton: Markus Wiener Publishers, 2008).

[83] State Department, *Documenting Atrocities in Darfur,* September 2004; and *Report of the International Commission of Inquiry on Darfur to the U.N. Security Council Pursuant to Security Council Resolution 1564,* January 25, 2005.

[84] Julie Flint and Alex de Waal, *Darfur: a New History of a Long War* (London: Zed Books, 2008); Office for the Coordination of Humanitarian Affairs, *Sudan Humanitarian Update: 2nd Quarter 2012*, July 16, 2012.

Movement (LJM), signed the Doha Document for Peace in Darfur (DDPD) in July 2011. As a result of that agreement, which the United States has guardedly supported, President Bashir announced the establishment of two new states in the Darfur region: East and Central Darfur States (there are now five Darfur states, comprising an area roughly the size of Spain). The creation of new states and other political positions that are part of a new Darfur Regional Authority (DRA) has allowed Khartoum to accommodate a larger range of political actors, but promised investments in the region have yet to materialize. The U.N. Secretary-General reports that provisions of the DDPD have yet to be implemented despite "modest progress," and that a shortage of government funding means that peace dividends remain unrealized.[85] Critics of the new dispensation suggest that Khartoum has used the new territorial divisions to further dilute the influence of groups opposed to the government. Khartoum has also reportedly shifted its support from Arab militias to new non-Arab groups to spur tensions between ethnic communities over land and political power, significantly changing the conflict dynamics in the region.[86]

The main Darfuri insurgent groups—the Justice and Equality Movement (JEM), which has been linked to Turabi's Popular Congress Party, and the two main factions of the Sudan Liberation Army (SLA)—rejected the DDPD. These groups have instead achieved a tentative rapprochement and aligned themselves with the SPLM-N under the banner of the Sudan Revolutionary Front, which has broadly outlined a national agenda for the groups' struggle against Khartoum.

Sudan and the International Criminal Court

In 2007, the U.N. Security Council granted the International Criminal Court (ICC) jurisdiction over certain serious crimes committed in Darfur. Despite the issuance of two ICC warrants, President Bashir, the first head of state to face an arrest warrant from the ICC, continues to reject calls to appear before the Court to answer allegations of war crimes, crimes against humanity, and genocide.[87] Former interior minister Ahmed Haroun, who allegedly mobilized the Janjaweed militias and currently serves as governor of Southern Kordofan, and alleged Janjaweed militia leader Ali Kushayb also continue to elude arrest. Several Darfuri rebel leaders sought in a separate case appeared before the Court in 2011. In March 2012, the Court issued another arrest warrant, for Sudanese defense minister Abdel Rahim Mohamed Hussein. Hussein was interior minister and the government's special representative in Darfur in 2003-2004. The Sudanese government has denounced the warrants and does not recognize ICC jurisdiction (it signed, but never ratified the Rome Statute); it has also impeded ICC investigations in the country.

The African Union has struggled to determine how to respond to an arrest warrant issued against the head of state of one of its members. Most AU countries are State Parties to the Rome Statute and thus bound to execute the Court's warrants, but to date none has moved to do so. Bashir has visited Chad, Kenya, and Malawi, all signatories to the Rome Statute, since the ICC issued the arrest warrant against him. In 2012, after the death of her predecessor, Malawi's new president, Joyce Banda, announced that Malawi would refuse to host Bashir at a planned AU Summit. AU officials protested the decision, and Banda subsequently announced that Malawi would no longer host the event.

The U.N. Security Council has required U.N. member states to maintain an arms embargo on Darfur since 2004, and yet, as the ongoing violence indicates, there is no shortage of weaponry in the region, much of it of Chinese, Russian, and Belarusian origin.[88] One recent independent report suggests that "arms supplies to Sudanese government forces and proxy militias in Darfur ... have been almost entirely unimpeded by the actions and policies of the international community, including the ineffectual U.N. arms embargo on Darfur."[89] The Security Council extended and

[85] UNSC, *Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur,* U.N. Document S/2012/548, July 16, 2012.

[86] Gramizzi and Tubiana, op. cit.; Small Arms Survey, "Business as Usual: Arms Flows to Darfur 2009-12," op. cit.

[87] The U.N. Security Council conferred jurisdiction over alleged war crimes in Darfur to the ICC in 2005.

[88] Small Arms Survey, "Business as Usual: Arms Flows to Darfur 2009-12," op. cit.

[89] Gramizzi and Tubiana, op. cit.

expanded the embargo in 2005 to include a ban on offensive military flights in the region, which Sudan has repeatedly violated.[90] President Bashir's rapprochement with President Idriss Déby in Chad appears to be holding, with both sides having reportedly ceased their support for rebels operating in the other's territory. Consequently, weapons flows from Chad and Libya, formerly a destabilizing influence under Muammar Qadhafi, appear to have diminished.

According to U.N. reports, the government has increasingly restricted the movements of the AU-U.N. Hybrid Operation in Darfur (UNAMID), impeding its ability to resupply and implement its mandate.[91] UNAMID currently remains the largest and most expensive peacekeeping operation in the world. In July 2012, the U.N. Security Council voted to reconfigure and downsize the operation by more than 3,000 troops. When fully implemented, the reconfiguration will make UNAMID the second largest operation, after the one in the Democratic Republic of Congo.

U.S. Policy Toward the Sudans

The United States has found itself pursuing multiple, and at times conflicting, aims in Sudan. Balancing these objectives has occasionally placed Congress and the Executive Branch at odds. Ending the human suffering and related human rights violations associated with Sudan's distinct but overlapping conflicts has been the overarching goal of U.S. policymakers for more than two decades. With finite attention and resources, however, U.S. policy toward Sudan has at times appeared to many to prioritize resolving one conflict at the expense of another.

The United States played a key role in facilitating the north-south peace process and ensuring that the parties signed the CPA. Critics of U.S. policy during the CPA period suggest, however, that the United States and other influential international actors shifted their focus from monitoring and maintaining progress on CPA implementation to the unfolding disaster in Darfur. In doing so, they failed to sustain pressure on Juba and Khartoum to meet certain critical benchmarks in the peace process. When attention shifted back to the south as its 2011 referendum approached, Darfur mediation efforts appeared to become a secondary priority. In late September 2012, as the United States and others cautiously welcomed the latest agreement between the Sudans, the SAF reportedly conducted air strikes against civilian targets in Southern Kordofan and North Darfur.[92] Negotiating humanitarian access to afflicted communities during these conflicts has required compromise, and at times has moderated calls for a more confrontational approach toward Bashir's regime. Similarly, U.S. pursuit of counterterrorism objectives in the broader region has led successive administrations to seek dialogue and cooperation from Khartoum.

U.S. policy toward Sudan evolved from one of isolation in the early 1990s under President Bill Clinton to a policy under President George W. Bush that focused on achieving reforms through increased diplomatic engagement with Khartoum.[93] The Clinton Administration, which named Sudan a state sponsor of terrorism in 1993, identified Sudan as a "rogue state" and supported

[90] The Security Council further extended the embargo in UNSCR 1945 (2006) to require states to seek end-user documentation for all arms exported to Sudan. China abstained from the vote.

[91] See, e.g., the most recent report of the Secretary-General on Darfur, U.N. Document S/2012/548, op. cit.

[92] "Sudan and South Sudan Poised to Sign Deal," *Al Jazeera*, September 27, 2012; State Department, "Deteriorating Security Situation in Darfur, Sudan," Press Statement, October 4, 2012.

[93] *Africa Policy in the Clinton Years: Critical Choices for the Bush Administration,* CSIS, 2001; Former Assistant Secretary for African Affairs George Moose interview at http://media.nara.gov/9-11/MFR/t-0148-911MFR-00739.pdf.

Ethiopia, Eritrea, and Uganda as "frontline states" to contain Khartoum, and to provide support to the SPLA. In 1996, under Western pressure, Sudan expelled Osama bin Laden from the country. Relations between Washington and Khartoum deteriorated further in August 1998, when, in response to the U.S. embassy bombings in East Africa, President Clinton ordered the bombing of a pharmaceutical factory in Khartoum purportedly linked to bin Laden.

By 1999, the U.S. policy approach was shifting, and President Clinton appointed former Member of Congress Harry Johnston to serve as a special envoy to work with allies in support of a new regional peace process for Sudan. In early 2001, under President Bush, the United States and Sudan began talks on terrorism, and the Bush Administration formed a Sudan Task Force to review and improve coordination of U.S. policy. President Bush appointed another special envoy, former Senator John Danforth, who took a new approach to the north-south war by proposing four confidence-building measures to the parties: a ceasefire in Nuba Mountains, days and zones of tranquility for humanitarian access in the south, the formation of a U.S.-led commission to investigate slavery,[94] and the cessation of attacks on civilians. Both parties were receptive, and the peace process moved forward. Throughout the CPA talks, the U.S. government never expressed a preference for unity or separation, although sympathies for the southern cause were apparent. The U.S. Embassy in Khartoum, which had suspended operations in 1996, re-opened in 2002.

By spring 2004, attention on Darfur was building, coinciding with commemorations of the 10th anniversary of the Rwandan genocide.[95] In September 2004, based on an investigation into reported atrocities in Darfur, Secretary of State Colin Powell testified before Congress that the government of Sudan and the Janjaweed militias had committed genocide in Darfur. In his testimony, he noted a coordinated, "consistent and widespread pattern of atrocities—killings, rapes, burning of villages—committed by Janjaweed and government forces against non-Arab villagers." Powell directly implicated the military in the attacks, and declared there to be evidence of a specific intent to destroy "a group in whole or in part" under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, to which Sudan is party. Meanwhile, an International Commission of Inquiry on Darfur established by the U.N. Security Council recommended that a list of individuals be investigated for possible crimes against humanity, leading to the Security Council's first referral to the ICC. The Commission of Inquiry differed with the U.S. determination that the situation in Darfur met the legal standard of genocide.

From 2004 onward, the U.S. media focused substantial attention on Darfur, and the coverage, combined with advocacy pressure, led to calls for military intervention. Bush Administration officials weighed concerns that action on Darfur might undermine the north-south peace process, however, and the international community struggled to get Sudan's compliance to deploy a more robust peacekeeping operation to the region. Then-Deputy Secretary of State Robert Zoellick was sent to mediate a peace agreement for Darfur, but the violence continued. By late 2006, Bush envoy Andrew Natsios threatened a "Plan B" if attacks on civilians persisted and Khartoum continued to oppose the AU-U.N. force; the details of the plan were never made public.[96]

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[94] See the Report of the International Eminent Persons Group, *Slavery, Abduction and Forced Servitude in Sudan*, May 22, 2002. The Group found that "the pattern of slave taking that has developed since the start of the civil war is, to a substantial degree, the product of a counter-insurgency strategy pursued by successive governments in Khartoum."

[95] For further discussion of Darfur advocacy efforts, see Rebecca Hamilton, *Fighting for Darfur: Public Action and the Struggle to Stop Genocide,* (New York: Palgrave MacMillan, 2011).

[96] Glen Kessler, "Bush Approves Plan To Pressure Sudan," *The Washington Post*, February 2007.

The ICC issued its first arrest warrants related to Darfur in 2007, and in 2008 the Prosecutor applied to the court for an arrest warrant for Bashir. The Bush Administration, which had declined to veto the ICC referral despite its opposition to the ICC, rejected calls by Khartoum for the Security Council to suspend its referral of the ICC cases, prompting Sudan to deny a visa to then-Special Envoy Rich Williamson, who stated in congressional testimony:

> The Government of Sudan, the Arab Militias, and rebel leaders all have blood on their hands. Make no mistake; this 'genocide in slow motion' continues.... Khartoum's policy in Darfur has been the same tactic they used in the South, to 'divide and destroy.' By manipulating tribal divisions, creating militias from Arab tribes, forcing people from their homes, and separating them from their tribal leaders, the government has created a lawless environment in Darfur that it can no longer control.[97]

Obama Administration Policy and Engagement

The Obama Administration appeared poised to take a hard line against Khartoum when President Obama took office. His foreign policy team included outspoken advocates such as Samantha Power, who in 2004 criticized the United States and others as "bystanders to slaughter" in Darfur. Power argued at that time that U.S. officials should focus less on whether the killings in Darfur met the definition of genocide and instead focus on "trying to stop them."[98] A former Clinton Administration official, Susan Rice, who was appointed to serve as President Obama's U.S. Ambassador to the United Nations, had in 2007 called for the next President to impose tougher sanctions on Khartoum, "support efforts to unify the rebel groups" in Darfur and a seek a negotiated agreement to end the conflict, and "implement and robustly enforce, with NATO, a no-fly zone." She also called on Congress to authorize the use of force "in order to end the genocide." She and several others joining the Administration publicly expressed the view that the United States had a legal and moral responsibility to end the atrocities in Darfur.[99]

In 2006, when they were Senators, Joseph Biden, now Vice President, along with Obama and Secretary of State Hillary Clinton, cosponsored S.Res. 559, calling on then-President Bush to take immediate steps to stop the violence in Darfur, including through the implementation of a no-fly zone. As a presidential candidate, Obama referred to a "moral imperative" to bring an end to the violence in Darfur, saying "we can't say never again and then allow it to happen again."[100]

President Obama appointed a new special envoy, retired Air Force Major General Scott Gration, in 2009. Gration initiated a policy review, and in October 2009, the State Department announced a new policy toward Sudan, under which the CPA, Darfur, and counterterrorism cooperation were each identified as primary priorities that would be addressed through a mix of pressures and incentives to achieve progress on all three. Among the incentives proposed was a pledge to investigate whether Sudan met the legal requirements to be removed from the state sponsor of terrorism list, in return for Khartoum allowing the south's referendum to proceed unimpeded.[101]

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[97] Testimony of Richard S. Williamson, SFRC, *The Continuing Crisis in Darfur,* April 23, 2008.

[98] Samantha Power, "Remember Rwanda, but Take Action in Sudan," *The New York Times*, April 6, 2004.

[99] Susan E. Rice, "The Genocide in Darfur: America Must Do More to Fulfill the Responsibility to Protect," The Brookings Institution, October 24, 2007. See also, Merrill A. McPeak and Kurt Bassuener, "Creating a No-Fly Zone in Darfur is the Best Way to Halt the Atrocities," *The Washington Post,* March 5, 2009.

[100] Video interview with Barack Obama, uploaded by the Save Darfur Coalition on YouTube on November 26, 2007.

[101] Mark Landler, "U.S. Revises Offer to Take Sudan Off Terror List," *The New York Times*, November 7, 2010.

The Administration's strategy also stressed the need to engage with both allies and "those with whom we disagree" to advance peace and security in Sudan, and declared that decisions regarding incentives and disincentives would be based on "verifiable changes in conditions on the ground," rather than "process-related accomplishments" such as the signing of agreements.[102] The strategy further asserted that Sudan would not be able to use cooperation on counterterrorism objectives, while "valued," as a "bargaining chip" against U.S. priorities toward Darfur and the CPA. The Administration sought assistance from Senate Foreign Relations Committee Chairman John Kerry, who had made multiple trips to Sudan, to reinforce this message.

After South Sudan's independence, the Administration committed itself to a policy of "supporting the emergence of two viable states at peace with one another and their neighbors."[103] In April 2012, acknowledging the Sudans' deteriorating relationship, President Obama admonished both parties, saying "Your future is shared. You will never be at peace if your neighbor feels threatened. You will never see development and progress if your neighbor refuses to be your partner in trade and commerce." The State Department has identified this message as the "core" of the Administration's policy toward the Sudans. The Administration has been publicly critical of both Sudan's aerial and artillery attacks against South Sudan and South Sudan's attack on Heglig, and has demanded that South Sudan cease any support for the SPLM-N. Administration officials also continue to register "grave concern" with the delayed implementation of agreements on humanitarian access in Southern Kordofan and Blue Nile, stressing Khartoum's responsibility to act with urgency. President Obama has welcomed the September 2012 accords between Juba and Khartoum, expressing the hope that they will spur the resolution of Sudan's other conflicts.

U.S. Sanctions and Economic Engagement

The United States maintains an array of sanctions against Khartoum through Executive Orders and congressionally-imposed legal restrictions. Initial sanctions were imposed in 1988, when economic and security assistance was frozen because of Sudan's debt payment arrears to the United States. Additional limits on non-humanitarian aid were proposed by Congress in 1989 to protest government restrictions on aid access, and by early 1990 all non-humanitarian aid was suspended because of the military coup. Some sanctions date to the late 1990s, when Sudan was named a state sponsor of terrorism, a designation still in effect. Others relate to abuses conducted during the civil war. Further sanctions were imposed more recently—several relate specifically to the Darfur conflict. As a sovereign state, South Sudan is no longer subject to those restrictions. However, given the interdependence of some sectors of the two economies, U.S. businesses are prohibited from engaging in certain activities with South Sudan without prior approval from Treasury's Office of Foreign Assets Control (OFAC). U.S. sanctions related to Darfur prohibit transactions by U.S. nationals in Sudan's petroleum and petrochemicals sectors.[104] U.S. law supports efforts by state and local governments, universities, and pension funds to divest from foreign companies operating in certain sectors of Sudan's economy.[105] Legislation proposed in the House of Representatives would expand the sanctions regime to target governments or persons that assist Khartoum in human rights violations by providing Sudan with military equipment.

[102] State Department, "Sudan: A Critical Moment, A Comprehensive Approach," Media Note, October 19, 2009.

[103] Testimony of Special Envoy Princeton Lyman, House Subcommittee on Africa, Global Health, and Human Rights, *A Comprehensive Assessment Toward U.S. Policy in Sudan,* October 4, 2011.

[104] Executive Order 13412, October 13, 2006; the Darfur Peace and Accountability Act of 2006 (P.L. 109-344).

[105] The Sudan Accountability and Divestment Act of 2007, P.L. 110-174.

Sudan's Designation as a State Sponsor of Terrorism

Sudan became a safe haven for Islamic extremist groups in the early 1990s, when the government began to actively support the activities of terrorist groups. Ilich Ramirez Sanchez, better known as "Carlos the Jackal" lived briefly in Sudan, until he was captured by French intelligence agents in Khartoum in 1994, as did the Palestinian terrorist Abu Nidal. Osama bin Laden used Sudan as a base of operations beginning in 1992 to support various *jihad* efforts around the world, before he was expelled in May 1996. While in Sudan he operated a network of businesses, including a construction company that built several major roads in the country. He quickly became one of the largest landowners in Sudan, and his agricultural investments gave him control of much of the country's commercial farming sector. His companies employed Al Qaeda members and financed the group's development, and he purchased large tracts of land on which to train militants. During this time, Al Qaeda was linked to the attempted assassination of Egyptian President Hosni Mubarak in 1995, while he was visiting Ethiopia, by the militant Egyptian Islamic Group. The assassination attempt was allegedly carried out with support from Sudanese intelligence, and Sudan's refusal to hand over individuals implicated in the plot led to U.N. Security Council sanctions in April 1996.[106]

In 1993, the Clinton Administration placed sanctions on Sudan for its support of terrorism. The country remains on the list of State Sponsors of Terrorism, although the State Department has considered Sudan to be a "cooperative counterterrorism partner of the United States" in recent years.[107] Despite this cooperation, several U.S.-designated terrorist groups continue to have a presence in Sudan, including Palestinian Islamic Jihad and Hamas, which has increased its presence since late 2011, according to the State Department. Sudan does not consider Hamas to be a terrorist group. Sudan's engagement with another State Sponsor of Terrorism, Iran, remains an area of concern. Independent experts have documented Iranian defense transfers to Sudan, which are not voluntarily reported to the United Nations.[108] There is periodic media speculation, and accusations from Israel that links Iran to alleged weapons shipments through Sudan bound for Gaza.[109] The State Sponsor designation makes Sudan subject to a ban on arms-related exports and sales, controls over exports of dual-use items, prohibitions on economic assistance, and various financial and other restrictions. In the 112th Congress, legislation was introduced—H.R. 895—that would require the Administration to maintain these restrictions until it certifies that Khartoum is "no longer engaged in training, harboring, supplying, financing, or supporting in any way," the Lord's Resistance Army or its leadership.

In January 2008, an American USAID employee, John Granville, and his Sudanese driver were murdered by gunmen in Khartoum. A previously unknown group, Ansar al Tawhid, claimed responsibility; the State Department identified the gunmen as sympathetic to Al Qaeda, calling themselves part of Al Qaeda in the Land Between the Two Niles. Four Sudanese were sentenced to death for the murders but later escaped from a maximum security prison. Only one, the son of a prominent Salafist leader, was recaptured, and in April 2012 Sudan's Supreme Court commuted his sentence to a $2,000 fine. Granville was not the first U.S. official killed in Khartoum—U.S. Ambassador Cleo Noel, Jr. and his deputy George Curtis Moore were assassinated by the Palestinian terrorist group Black September in 1973.

In an effort to expand trade with South Sudan, a key priority for U.S. engagement, OFAC issued two general licenses in late 2011: one to authorize activities relating to South Sudan's petroleum sector (including paying pipeline and port fees) and another to authorize the transshipment of goods, technology, and services through Sudan to and from South Sudan.[110] South Sudan is now a beneficiary of the Generalized System of Preferences program, and Congress added it to the list of countries eligible for benefits under the African Growth and Opportunity Act (AGOA) in P.L. 112-163; South Sudan now awaits a presidential determination on its AGOA eligibility.

[106] UNSCR 1054 (1996) imposed diplomatic and travel sanctions on Sudan for its failure to extradite suspects in the assassination attempt and for its continued support of terrorist activities. The sanctions were lifted in 2001.

[107] State Department, *Country Reports on Terrorism 2011*, July 31, 2012.

[108] Mike Lewis, *Skirting the Law, Sudan's Post-CPA Arms Flows*, Small Arms Survey, September 2009; Sudan Human Security Baseline Assessment, "SAF Weapons Documented in South Kordofan," Small Arms Survey, April 2012.

[109] "Were the Israelis Behind the 'Mystery' Air Strike in Sudan?" *Time*, April 6, 2011; "Car Blast in E. Sudan, Khartoum Points to Israel," Reuters, May 22, 2012; "Rockets and Meetings," Africa Confidential, May 25, 2012.

[110] American involvement in refining South Sudanese petroleum in Sudan remains prohibited under U.S. sanctions.

U.S. Assistance

Unified, pre-July 2011 Sudan was consistently among the top recipients of U.S. foreign aid, not only in Africa but globally, for over a decade. U.S. assistance, including bilateral aid, emergency humanitarian aid, and support for peacekeeping operations, has totaled over $1 billion annually in recent years. FY2013 is the first year for which the State Department and USAID have requested assistance separately for the new country of South Sudan.[111] A breakout of U.S. assistance to the North and South respectively is available in **Appendix C**. The United States provided more than $274 million in humanitarian assistance to South Sudan in FY2012, and over $296 million to vulnerable populations in Sudan, two-thirds of which supported efforts in Darfur.

The State Department has referred to the consolidation and strengthening of the new nation of South Sudan as the biggest governance challenge in Africa in FY2013. U.S. assistance to the country is guided by a USAID transition strategy to increase internal stability.[112] The bulk of proposed development assistance to the country aims to build government and civil society capacity and economic infrastructure, and to mitigate local conflict. According to the State Department's budget request, U.S. assistance to South Sudan in FY2013 would "accelerate progress in the critical areas of governance, rule of law, conflict mitigation, economic development, delivery of basic services, and security sector reform." Efforts to build the country's agricultural capacity and reduce its dependency on food aid are a central component of economic growth objectives. USAID reports that its existing development strategy relied on a level of government ownership by South Sudan that may be unrealistic in view of Juba's current austerity budget, and some programs in the health and education sectors have been revised with the aim of preserving and protecting basic service delivery until oil revenues begin to accrue again.[113] Some longer-term institution building programs in these sectors have been postponed. Proposed FY2013 aid funding would also continue State Department efforts to help transform the SPLA from a guerilla army to a professional military force subordinate to civilian leadership and protective of human rights, and to build the capacity of the nascent police force. Military assistance for both Sudans is subject to congressionally-mandated restrictions related to the use of child soldiers, although President Obama issued a presidential waiver in September 2012 exempting South Sudan (along with Libya and Yemen) from the restrictions.[114]

In Sudan, where some forms of U.S. assistance remain constrained by congressionally-imposed restrictions, FY2013 development assistance is expected to focus on, among other priority areas, peace building and conflict mitigation in Southern Kordofan, Blue Nile, Darfur, and other marginalized areas. In addition to bilateral aid to the two Sudans, roughly 40% of the State Department's FY2013 request for global Contributions to International Peacekeeping Activities (CIPA, the foreign aid account that covers the U.S. share of assessed expenses for international peacekeeping operations and tribunals) is allocated for the three U.N. operations in the Sudans.

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[111] Foreign assistance appropriations for FY2013 have yet to be finalized. P.L. 112-175 continues funding for aid accounts at the FY2012 enacted level (with a 0.612% increase) through March 2013. Country allocations, if not specified in FY2012 enacted legislation, are left to the discretion of State and USAID, in consultation with Congress.

[112] USAID, *South Sudan Transition Strategy 2011-2013*, June 2011.

[113] Interviews with USAID officials in August 2012.

[114] South Sudan is designated by the State Department as a Tier 2 Watch List country for human trafficking, and forcible conscription of children by armed groups, including official security forces, reportedly continues, despite efforts by the SPLA to eliminate child soldiers from its ranks. Sudan is ranked a Tier 3 country, because the State Department views the government as not making significant efforts to combat trafficking. The ongoing recruitment of children makes both countries subject to penalties under the Child Soldiers Prevention Act of 2008 (P.L. 110-457).

Outlook for Congress and U.S. Policy

The United States faces a complex range of policy options as it considers the way forward for engagement with the two Sudans. Members of Congress may debate whether they concur with the Administration's current approach or wish to guide U.S. policy toward either country in a different direction. Previous congressional action on Sudan may provide lessons and examples. Advocates and experts may have new ideas on the merits of various "carrots" and "sticks," or other policy options to promote peace and stability in both countries.

Given the complexity of U.S. relations with the Sudans, President Obama has continued to use a special envoy to coordinate policy toward both countries. The envoy oversees an expanded team of State Department personnel that includes the Sudan and South Sudan country desks.[115] The President appointed a U.S. Ambassador to South Sudan in 2011, after independence; the United States has not had an ambassador to Sudan since 1997. The Embassy in Khartoum is led by a chargé d'affaires. The appointment of an ambassador would likely be viewed by Khartoum as a key step toward improving relations, and some contend it would raise the caliber of the bilateral dialogue. Critics contend that such an appointment would signal that the United States accepts engagement with Khartoum, in spite of the regime's abuses. If the President were to appoint an individual for the post, the Senate nomination hearing and vote may serve as a venue for Congress to reexamine U.S. engagement with Sudan. Possible security concerns related to enhancing the U.S. diplomatic presence in Khartoum also may factor into executive branch and congressional decisions on this issue.

Trust between Khartoum and the United States is low. Khartoum seeks to improve the relationship, cognizant that this might bolster its international standing and aid its efforts to reengage with multilateral financial institutions. In Sudan's view, the United States has repeatedly "moved the goalpost" on lifting sanctions. From the perspective of many U.S. officials, though, Sudan continues to commit "violations of human rights and modern rules of war ... so grave as to make it impossible to proceed" with efforts to modify the current sanctions regime.[116] Sudan's history of partially implemented peace accords also remains a prominent consideration for many in Congress and the Administration. Should the Administration decide to ease certain sanctions against Sudan, possibly in exchange for concessions from Khartoum, changes to some restrictions would require congressional action. For the Administration to remove Sudan's state sponsor of terrorism designation, for example, the Secretary of State must report to Congress that there has been both a change in leadership and in policy in Khartoum.[117] Public law requires that certain other restrictions against the government remain in place until Khartoum complies with specific conditions outlined in P.L. 108-497, P.L. 109-344, and current appropriations legislation.

Congress continues to monitor ongoing reports of serious violations of human rights and humanitarian law in parts of Sudan. Khartoum's crackdowns on peaceful anti-government

[115] Amb. Princeton Lyman currently serves as the sixth U.S. Special Envoy for Sudan, with support from Amb. Dane Smith, who serves as Senior Advisor for Darfur.

[116] U.S. Special Envoy for Sudan and South Sudan Princeton Lyman, "U.S.-Sudan Relations," Address to the Michael Ansari Center of the Atlantic Council, August 1, 2012.

[117] Section 620(A)(c)(1) of the Foreign Assistance Act of 1961 specifies that the Secretary must certify that "there has been a fundamental change in the leadership and policies of the government of the country concerned; that the government is not supporting acts of international terrorism; that the government has provided assurances that it will not support acts of international terrorism in the future."

protests in 2012, its ongoing violations of basic rights and freedoms across the country, and its perceived tolerance for violent rhetoric espoused by Salafist clerics all complicate the U.S.-Sudan relationship, as do its repeated air strikes in South Sudanese territory. Khartoum continues to use its sovereignty as a shield—access by aid groups, human rights monitors, and peacekeepers to populations in conflict areas is routinely denied by the government, in contravention of international humanitarian law.[118] The United States and the United Nations have condemned attacks against civilians and stressed the need for improved humanitarian access to Southern Kordofan and Blue Nile, but government restrictions on aid to opposition-held areas continue. The Obama Administration has called the humanitarian crisis "profoundly unacceptable," and Khartoum's "business-as-usual approach ... intolerable."

Some in the advocacy community, invoking the "responsibility to protect" concept, contend that the international community should do more to protect civilians—namely increase diplomatic pressure to negotiate immediate humanitarian access. Should Khartoum continue to impede access, though, some proponents have urged collective measures such as imposing sanctions, establishing safe zones and/or no-fly zones, or deploying a protection force to the two states.[119] Some have called for international actors to deliver aid across the borders of South Sudan and Ethiopia into the afflicted areas with or without Sudan's permission, as Congress first authorized the U.S. government to do in Sudan in 1999.[120]

The U.N. Security Council remains divided on how to respond to Sudan's ongoing violations of human rights and UNSC resolutions. Proposals to extend the arms embargo and ban offensive military flights beyond Darfur would likely be opposed by some on the Council. Similarly, the deployment of a U.N.-mandated force to the two states without Khartoum's consent appears improbable, unless a ceasefire is reached. There appears to be little appetite for foreign military intervention, such as the implementation of a no-fly zone, an option once advocated for Darfur by individuals now in the Obama Administration. Russia and China, which abstained from voting to authorize a no-fly zone for Libya in 2011, now appear adamantly opposed to the concept in other conflict situations, such as Syria, viewing it as a potential vehicle to pursue regime change. Should Sudan and South Sudan fail to make further progress on negotiations, and should

[118] In 2009, Sudan expelled 13 international NGOs operating in Darfur after the ICC issued its arrest warrant for Bashir, accusing them of spying. In June 2012, four NGOs were expelled from the east. Sudan was hostile to initial proposals for a U.N. force in Darfur—in 2006, Bashir warned that Darfur would be a "graveyard for U.N. forces if they were deployed. "Al Bashir Says Sudan 'Would Fight' U.N.-Sponsored Forces in Darfur," Agence France Presse (AFP), August 15, 2006. Sudan did not accept UNSCR 1769 (2007), which authorized the UN force, for almost 10 months, until some UNSC members threatened to tightened sanctions. Sudan continues to constrain UNAMID operations with bureaucratic roadblocks, such delaying the approval of visas or holding equipment at port. The U.N. Panel of Experts for the arms embargo has faced similar challenges with visas. For an overview of customary humanitarian law applicable during armed conflicts, see the International Committee of the Red Cross database at http://www.icrc.org/ihl.nsf.

[119] Jenn Christian, "Shifting the Burden: The Responsibility to Protect Doctrine and the Humanitarian Crisis in Sudan," September 13, 2012. The concept of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity was outlined in a 2009 by the U.N. Secretary-General in U.N. Document A/63/677 available at http://www.un.org/en/preventgenocide/adviser/responsibility.shtml.

[120] In the Consolidated Appropriations Act of 2000 (P.L. 106-113), Congress authorized food aid for "groups engaged in the protection of civilian populations from attacks by regular government of Sudan forces, associated militias, or other paramilitary groups supported by the Government.... Any such assistance shall be provided separate from and not in proximity to current humanitarian efforts... In considering eligibility of potential recipients, the President shall determine that the group respects human rights, democratic principles, and the integrity of ongoing humanitarian operations, and cease such assistance if the determination can no longer be made." Congress reiterated support for the distribution of relief to areas affected by government-imposed flight bans in the Sudan Peace Act (P.L. 107-245).

Khartoum continue to delay implementation of the Tripartite Proposal for humanitarian access, the Security Council may be inclined to impose economic sanctions on one or both parties.

Some Members of the 112th Congress have proposed additional punitive measures on Sudan. The Sudan Peace, Security, and Accountability Act of 2012, H.R. 4169, which has been referred to committee, would direct the President to develop a strategy to end serious human rights abuses and promote peace and democratic reform in Sudan. It would impose sanctions on any person or government found to contribute to Sudan's capacity to commit abuses through the transfer of military equipment and on any ICC member state that fails to execute an ICC arrest warrant.

While the relationship between Washington and Juba, which has been characterized by President Obama and Secretary Clinton as a "partnership," is markedly warmer than that with Khartoum, it too is tempered by concerns about human rights abuses and corruption. The United States has invested considerable foreign assistance resources to lay the foundation for development of South Sudan. Tensions between Khartoum and Juba threaten that progress. Under austerity measures, Juba has allocated more than half its budget to security, much of which goes to salaries for soldiers and maintaining readiness. Some observers view this as emblematic of patronage to a bloated military at the expense of development priorities that are being met in part with U.S. assistance funds. Others, however, express concern that South Sudan's internal security situation has appeared increasingly fluid in the past year. They argue that maintaining the morale and loyalty of the army to the government may be key to ensuring stability and state viability in the near term, and to protecting donor investments in the country's development.

Alleged support by South Sudan's government for insurgent groups in Sudan further complicates U.S.-South Sudan relations, and the Obama Administration maintains its position that the conflicts in Southern Kordofan, Blue Nile, and Darfur must be resolved peacefully, rather than militarily. Some Sudan watchers contend, however, that South Sudan's long armed struggle against Khartoum, and the pressure it placed on the government, was the only effective tool to ensure that the aspirations of southerners were achieved. The SPLM-N leadership argue that they are willing to negotiate with Khartoum, but that they, like the SPLA before them, have been forced to fight against government aggression for peace, democracy, and justice.[121]

The goal of protecting civilians in South Sudan raises key questions for Congress, given ongoing insecurity in parts of the country. South Sudan's security forces have the primary responsibility for that role, but their capacity is limited. As Congress considers the Administration's security assistance requests for these forces, it may seek to assess the extent to which such support might both enhance their capacity and improve their behavior. Human rights groups continue to report abuses by some units, and incidents between various armed actors, including some elements of the SPLA, and relief agencies—ranging from the commandeering of vehicles and raiding of aid compounds to violence—are also of serious concern.

UNMISS, which is charged with advising and assisting the South Sudanese forces to fulfill their civilian protection role, also has a mandate to directly protect civilians under imminent threat of violence, "within its capabilities and in its areas of deployment." The lack of infrastructure in South Sudan and the peripheral areas of Sudan significantly complicates these efforts, as does the shortage of helicopters available for U.N. operations. Furthermore, some have questioned UNMISS's capacity to protect civilians from harm by the SPLA, should the need arise. Neither

[121] The SPLM-N maintains a page on Facebook.com, on which it posts its positions and public statements.

UNMISS nor the SPLA have the capacity to protect civilians from air strikes by Sudan—some, including a former U.S. Special Envoy, have suggested that the United States should provide South Sudan with anti-aircraft weapons to deter and defend against future attacks.[122] Should the Administration take that step, it would undoubtedly worsen relations with Khartoum.

As discussed in this report, the deteriorating relationship between Juba and Khartoum in the past year led South Sudan to cease oil production, thereby cutting its primary source of revenue and further squeezing Sudan, which was already struggling under the loss of the south's resources. After decades of war, distrust between the two governments is high. The September 2012 agreements reached by the parties are a positive step, but the border remains a tinderbox. The two have spent more than a decade in negotiations, with some notable successes—namely the peaceful circumstances of their separation in 2011—but several previously signed agreements remain only partially implemented, thus fueling renewed conflict. The economic and political pressures on both governments are a reminder that the possibility of state collapse in either country cannot be discounted. In the near term, although they now exist as separate countries, Sudan and South Sudan remain bound together in U.S. policy, and executive and congressional decisions that affect U.S. relations with one country may, for better or worse, impact the other.

[122] Andrew S. Natsios, "To Stop the War on South Sudan, the U.S. Should Send Weapons," *The Washington Post*, May 11, 2012.

Appendix A. Status of Negotiations

Status of the Negotiations Between Sudan and South Sudan

The negotiating teams from Khartoum and Juba returned to Addis Ababa, Ethiopia on September 3, 2012, to resume talks on outstanding issues. While some concessions had been made prior to the August 2 deadline established by the U.N. Security Council, they fell short of the agreement called for in UNSCR 2046 (2012). This round of talks concluded on September 27, after a summit of the two Presidents, with the signing a series of agreements on security and economic cooperation. They do not, however, represent a comprehensive agreement on unresolved disputes, which both sides, and the Security Council, had previously demanded. Several security-related issues, including the status of contested border regions, have been left for future talks. Those talks are likely to be complicated by ongoing allegations of support for rebel groups by both sides. Following an anticipated report from AUHIP Chair Thabo Mbeki on the progress that has been made, the Security Council may set a new deadline for the parties to resolve their remaining disputes. Below is a summary of the status of the deliberations.

Financial Arrangements – In August, Sudan and South Sudan agreed to a tentative deal on oil and related financial transfers, it was signed on September 27. As part of the deal, fees and tariffs associated with southern oil transiting Sudan have been set, averaging $10 per barrel. Additionally, South Sudan will provide $3.028 billion in transitional financial assistance (TFA) over a 3.5 year period to Sudan. The TFA is aimed at partially addressing the financial gap Sudan faces as a result of the loss of southern oil revenues, estimated by the IMF at almost $8 million. South Sudan's TFA payments to Sudan will commence after oil exports resume, which experts anticipate will occur in early 2013 if implementation of the agreement proceeds as expected. The parties also agreed to cooperate on banking and monetary policy in the September accord. Also, as part of the deal, South Sudan has committed to advocate for international debt relief for Khartoum. Some observers suggest the AU mediators may overestimate the willingness of donors to provide Khartoum with funds to cover the remainder of its shortfall.

Border Monitoring – The AUHIP has proposed an administrative common borderline that the parties have agreed to use to define a Safe Demilitarized Border Zone (extending 10 km on either side of the line). The borderline does not prejudice a final decision on the border, but is to be used by a joint entity, composed of political and security officials from both sides, to oversee implementation of border-related deals and resolve related disputes. South Sudan, which had previously accepted the borderline, had noted its concern that the AUHIP borderline places four out of five of the disputed areas north of the line, and thus under the administrative control of Sudan until the final border is defined. Sudan rejected the borderline until South Sudan conceded to withdraw its forces from the fifth area, a 14 mile stretch between Northern Bahr el Ghazal and East Darfur that is one of the richest grazing areas in the region. South Sudan pressed unsuccessfully for all the disputed areas to be demilitarized. The talks have yet to formally address areas along the border controlled by the SPLM-N, which is not part of the negotiations, and the monitors' ability to patrol those sections remains unclear.

Resolving Border Disputes – The proposed demilitarized zone is only a short-term, partial fix for long-standing disputes along the north-south border. The parties have yet to agree on the modalities for resolving ownership of the contested border areas. South Sudan proposes that any disputes that cannot be resolved by the parties be submitted for international arbitration, while Sudan maintains that the parties should resolve them through negotiations. South Sudan remains concerned that disputed areas such as Abyei could remain under de facto Sudanese control for an indeterminate time. An AUHIP panel of experts is expected to provide the parties with a non-binding opinion on how the border disputes should be resolved.

Citizenship – The parties have reached agreement on "four freedoms" for nationals of both countries, namely the freedoms of movement and residence, as well as the freedom to undertake economic activity and to own property. If the spirit of the agreement is followed by both sides, it should allow some 500,000 people of South Sudanese origin who remain in Sudan to formally live and work there, and allow Sudanese nomadic groups such as the Misseriya to continue their seasonal migrations into South Sudan. As with other issues, implementation of any citizenship arrangements may be linked to the status of relations between the two governments.

Abyei – Abyei's final status remains in question and represents one of the most intractable issues between the parties. South Sudan continues to call for resolution through a referendum for Abyei residents, as agreed to in the CPA. It maintains that eligible voters be defined as all members of the Ngok Dinka and any other individuals who have had a "continuous and uninterrupted residence and domicile within the Abyei area," for no less than three consecutive years immediately prior to January 9, 2005. Sudan, by contrast, would have Abyei's status determined by the two countries' presidents, and has proposed partitioning the region.

Appendix B. The Humanitarian Situation

Table B-1.Humanitarian Data at a Glance

(Estimated figures, August-September 2012)

SOUTH SUDAN	
Population at risk of food insecurity	4.7 million
Population in need of emergency food aid	2.9 million
Conflict-Related Displacement in 2012	167,930
Verified Returns from Sudan to South Sudan since October 2010	661,410
Refugees from the Democratic Republic of Congo in South Sudan	18,000
Civilians displaced from Abyei	77,000
- number of whom have returned to areas north of the River Kiir	10,030
- number of whom remain displaced from north to south of the river Kiir	67,000
Refugees from South Sudan in Kenya, Ethiopia, Uganda, and Egypt	83,500
SUDAN	
Population in need of emergency food aid nationwide	4.2 million
Population in need of food aid in Darfur	3.3 million
Internally displaced persons (IDPs) in Darfur	1.7 million
Returns of Darfur IDPs and Refugees to their place of origin in 2011	178,000
Civilians in Southern Kordofan severely affected by conflict	520,000
- number of whom are in SPLM-N held areas	350,000
Civilians in Blue Nile severely affected by conflict	145,000
- number of whom are in SPLM-N-held areas	70,000
Refugees from Southern Kordofan and Blue Nile in South Sudan	180,700
Refugees from Southern Kordofan and Blue Nile in Ethiopia	30,400
Refugees from Darfur in Chad	288,000
Refugees from Sudan in Egypt	25,000
People of South Sudanese origin in Sudan who may need assistance to return to South Sudan	500,000

Source: U.N. OCHA, *Sudan Humanitarian Update: 2nd Quarter 2012*, July 17, 2012; USAID, *Sudan Complex Emergency Fact Sheet #5, FY2012*, August 17, 2012; *South Sudan Complex Emergency Fact Sheet #5*, September 30, 2012.

Note: The population of Darfur is estimated at 7.5 million. The populations of Southern Kordofan and Blue Nile are approximately 2.5 million and 832,000, respectively.

Appendix C. U.S. Foreign Assistance to the Sudans

Table C-1.U.S. Bilateral Foreign Assistance to Sudan and South Sudan

($ in thousands)

Account, by year	GHP-USAID	GHP-State	ESF	INCLE	NADR	IMET	FMF	PKO	FFP	TOTAL
					SUDAN					
FY2011 Actual			26,393	2,000	1,100				209,133	238,626
FY2012 Estimate			30,000		1,100				N/A	31,100
FY2013 Request			37,600	2,000	1,000				N/A	40,600
					SOUTH SUDAN					
FY2011 Actual	34,848	12,036	223,431	25,000	2,800	763		41,870	54,634	395,382
FY2012 Estimate	44,210	12,036	305,360	32,000	2,800	800		58,000	15,000*	470,206
FY2013 Request	36,010	16,600	288,499	27,404	2,800	750	200	40,000	15,000*	426,598

Source: State Department FY2013 Congressional Budget Justification (CBJ) for Foreign Operations.

Notes: * The FY2012 and FY2013 figures for both countries do not include emergency food aid provided under the USAID-administered Food for Peace (FFP) program, which is determined during the year according to need. GHP = Global Health; DA = Development Assistance; ESF = Economic Support Fund; INCLE=International Narcotics Control & Law Enforcement; PKO = Peacekeeping Operations; NADR = Nonproliferation, Antiterrorism, Demining & Related Programs; IMET = International Military Education & Training; FMF = Foreign Military Financing.

Table C-2.U.S. Foreign Assistance for the Sudans, including Bilateral and Humanitarian Assistance and Peacekeeping Contributions

($ in millions)

Funding, by year	Bilateral Aid to Sudan	Bilateral Aid to South Sudan	Humanitarian Aid	Peacekeeping	TOTAL
FY2011	30	341	502	679	**1,552**
FY2010	399	-	1,100	431	**1,930**
FY2009	377	-	623	937	**1,937**
FY2008	393	-	844	830	**2,067**

Source: Bilateral aid and peacekeeping figures drawn from State Department CBJs; humanitarian aid figures, which cover both USAID and State emergency assistance, are drawn from USAID's Complex Emergency Situation Reports for Sudan and South Sudan.

Note: FY2011 is the first year for which bilateral aid figures for South Sudan are available separately.

Appendix D. Acronyms

Acronyms

AMIS: African Union Mission in Sudan

AUHIP: African Union High-Level Implementation Panel

CPA: Comprehensive Peace Agreement

DDPD: Doha Document for Peace in Darfur

DRA: Darfur Regional Authority

DUP: Democratic Unionist Party (an opposition party in Sudan)

JEM: Justice and Equality Movement (an insurgent group in Darfur)

LJM: Liberty and Justice Movement

NCF: National Consensus Forces (an alliance of opposition parties in Sudan)

NCP: National Congress Party (Sudan's ruling party)

NIF: National Islamic Front

PCP: Popular Congress Party (an opposition party in Sudan)

PDF: Popular Defense Forces (Sudanese government-backed militia)

SAF: Sudan Armed Forces (the Sudanese military)

SDBZ: Safe Demilitarized Border Zone

SLM/A: Sudan Liberation Movement/Army (an insurgent group in Darfur)

SPLM/A: Sudan People's Liberation Movement/Army (South Sudan's ruling party and its army, respectively)

SPLM/A-N: Sudan People's Liberation Movement/Army – North (formerly a recognized opposition party in Sudan, became an insurgent group in 2011)

SRF: Sudan Revolutionary Front (an alliance of insurgent groups in Sudan)

UNAMID: United Nations – African Union Hybrid Mission in Darfur

UNISFA: United Nations Interim Security Force for Abyei

UNMIS: United Nations Mission in Sudan

UNMISS: United Nations Mission in South Sudan

Appendix E. Peacekeeping Operations

Table E-1. Current U.N. Peacekeeping Operations in Sudan and/or South Sudan

Operation	Date of Establishment	Authorizing Resolutions	Authorized Strength/Currently Deployed	U.S. Assessed Contribution
U.N.-AU Hybrid Mission in Darfur (UNAMID)	est. July 31, 2007; assumed duties from AMIS Dec. 31, 2007	Res. 1769 (2007); 2063 (2012)	25,987 authorized 2007 20,890 authorized 2012 21,607 deployed	FY12–$518,178,000; FY13–$512,330,000
U.N. Interim Security Force for Abyei (UNISFA)	June 27, 2011	Res. 1990 (2011); 2024 (2011); and 2047 (2012)	4,250 authorized 6,633 deployed	FY12–$0 FY13–60,000,000
U.N. Mission in South Sudan (UNMISS)	July 9, 2011	Res. 1996 (2011); 2057 (2012)	7,900 authorized 6,633 deployed	FY12–$0 FY13–$238,665,000

Source: United Nations and U.S. State Department Congressional Budget Justification for FY2013.

Notes: The resolutions listed denote the original authorization and changes to the mandate or size of the force; other resolutions adopted to extend the term of the operations are not listed. Deployment figures from August 2012. UNAMID was preceded by the AU Mission in Sudan (AMIS). The mandate of another peacekeeping operation, the U.N. Mission in Sudan (UNMIS) was terminated in July 2011 at the request of the government of Sudan. UNMIS's mandate covered South Sudan, Southern Kordofan, Blue Nile, and the disputed Abyei region.

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